Acta Sanctae Sedis

Acts of the Holy See

Holy See; Vatican

An English translation of the Latin edition
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[*Latin ed. p. 1*]

A COMPENDIUM, CONVENIENTLY ARRANGED AND ILLUSTRATED, PREPARED WITH DILIGENCE AND CARE BY VICTOR PIAZZESI, DOCTOR OF BOTH LAWS, BEING: Acts, juridical in nature, and emanating directly from the Supreme Pontiff, whether they be Decrees, Instructions, Responses, or other similar matters; especially, expositions and resolutions of cases from the Sacred Congregations of Eminent Cardinals, contributing to the accurate understanding and observance of ecclesiastical law, compiled in a concise manner; and finally, other juridical matters, by which those things which may present difficulty in the aforementioned acts are suitably explained, or which further contribute to the knowledge of existing law: for the benefit of those who diligently strive to understand the laws of the Church, and in the governance of the Christian flock, or in the zealous cultivation of the Lord's vineyard.

ROME, FROM THE PRINTING PRESS OF THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, 1900-1901.

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[*Latin ed. p. 3*]

LETTERS from the Most Holy Pope Leo XIII to His Eminence, the Cardinal Vicar, to encourage Religious Communities to offer prayers to God for the grievous events in China, and that true peace and concord may return.

Most Reverend Cardinal, the grievous events that are occurring in China, besides causing us deep sorrow for the shedding of so much human blood, also fill Us with great anxiety and concern for the Apostolic Vicariates located there, and for the dangers facing the Missionaries and the Christian faithful, who are exposed to the most severe trials and even to the sacrifice of their lives.

To obtain that the divine Clemency may regard those troubled populations with favor and remove the disasters that are feared by all, We already knew that the Urban College of Propaganda and other religious institutions in Rome, upon receiving the first news of these unfortunate events, had begun to offer prayers. Now, however, as the difficulties and anxieties increase, We consider it opportune and necessary that the fervor of such prayers be more widely joined in this Our City.

It is therefore Our heartfelt desire that you, Most Reverend Cardinal,

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addressing all the Religious Communities, remind them of the necessity of raising humble supplications to the Most High, so that, inspiring thoughts of concord and peace, an end may be brought to the ruins and massacres.

And so that such prayers, which the faithful offer for their brethren afar, in union with Our own, may be more efficacious, We impart, from the heart, both to you and to the aforementioned Communities, the Apostolic Blessing.

From the Vatican, 16th of July, 1900.

LEO XIII, POPE.

LETTERS in brief form from the Most Holy Pope Leo XIII to His Eminence, the Archbishop of Milan, concerning matters of interest to the election of representatives of the people (1).

LEO XIII, POPE. Beloved son, greetings and the apostolic blessing.

The letters that you and the other provincial superiors sent to Us after the assembly in Rho, We read with great pleasure. They were indeed...

[*Latin ed. p. 4*]

The letters express both our concern for the observance of matters, in accordance with our desires, and our diligence in promoting the benefits of your churches. We especially desire that this diligence be directed towards ensuring that the faithful render the utmost obedience to this Apostolic See. We are saddened to learn that there have been, and still are, some who have dared to advise Catholics to disregard the decree which We have long issued, forbidding the participation of laymen in assemblies for the election of speakers for the people. These individuals, whether through ignorance of the current state of Our See, or, contrary to their duty, consider it permissible to disregard it. Therefore, let the Bishops diligently ensure that obedience is rendered to these Our mandates; for the reasons given are of the greatest importance and are still fully in force, and are not diminished by any additions. We have no doubt that God will abundantly reward your efforts. In order to bestow upon you and your flocks even greater heavenly gifts, We impart, through Our Apostolic Blessing, Our heartfelt thanks for the service you are rendering, to you and to all the Bishops and faithful. Given at Rome, near St. Peter's, on the eighth day of June, in the twenty-third year of Our Pontificate.

FROM THE HOLY CONGREGATION OF THE COUNCIL OF SENENSE.

DISTRIBUTION OF CHORAL MUSIC.

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April 7, 1900. Session 24. Chapter 15. Concerning reforms.

In the metropolitan chapter of Siena, before the pernicious laws of the present day overturned what the piety of the faithful and the magnificence of the Roman Pontiffs had established, there were counted twenty-six canons, besides many other clerics of lower orders, dedicated to the service of the church. Of these canons, twelve were subject to the right of patronage.

COMPENDIUM OF FACTS.

[*Latin ed. p. 5*]

Indeed, five canons held benefices, distinct entirely from a certain endowment common to all, from which the daily choral distributions were drawn. By laws, which we have just lamented, the number of canonical benefices was reduced to twelve; but the goods of the Chapter, under the title of choral distributions, and therefore not assigned to the treasury, were so heavily burdened with taxes that the Archbishop, as stated in the aforementioned letters, asserted that the patrimony of the Chapter had been reduced to no more than half the number of canons. Under these circumstances, the Archbishop and the Chapter deliberated together concerning the arrangement of the Chapter's resources for the new situation, and it was considered that a greater danger threatened the Chapter in the future, for two reasons: first, because lay patrons, most distinguished men, devoted to the Church, would, according to civil laws, use the right of presenting clerics to be coopted among the canons, after having redeemed the canonical benefices from the grasp of the treasury; thus, the number of canons would, at some point, almost equal the old number; but secondly, or from this very reason, the canons feared the ruin of the Chapter, since the revenues of individual benefices, already diminished, would be further reduced, and they would no longer participate in the common patrimony of the choral distributions, which was also diminished; therefore, canons who had never enjoyed the benefits of a rich benefice would be reduced to extreme poverty. Therefore, the Chapter requested the Archbishop to obtain permission from the Holy See to reduce the number of canons who had the right to choral distributions, drawn from the common patrimony, to a certain and smaller number; and that the poorer benefices, with the consent of the patrons, should be suppressed by the Archbishop himself, by virtue of the power granted to him by the Council of Trent, Session 24, chapter 15, concerning reforms. The Archbishop explained this decision of the Chapter and the petition that had been presented in letters dated July 10, 1880, addressed to the Sacred Congregation of the Council, referring to

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the entire Chapter and to individual canons.

[*Latin ed. p. 6*]

6. FROM the history and substance of the prebends, as presented by the Sacred Congregation, — the Holy See, by decree of July 19, 1880, in almost all respects approved the petition of the Archbishop and Chapter. However, with regard to our matter, the discussion must be limited to the prebend of the Treasurer, concerning which a controversy is now raised before the Sacred Congregation; and this controversy primarily consists in whether the Treasurer can lawfully be prohibited by the canons from receiving the choral distributions, since he is included among those canons who have been excluded from participating in such chapter endowments by reason of faculties granted by the Holy See. The canonical prebend of the Treasurer was established in the year 1623 by the decree of Archbishop Piccolomini, and because the endowment of this prebend is primarily derived from a certain simple benefice attached to the Treasurership, the patronage of this prebend was assigned to the family of Sansedoni, who already exercised the patronage right in the attached benefice. However, in our time, only two sisters of the Sansedoni family, Iosepha and Helena Sansedoni, survived, and today the right has devolved to the family of Fiori, through Iosepha, who is now a widow, and who has two sons, Ioannes and Antonium. After the subversive ecclesiastical laws of 1872, the Treasurership became vacant, and the brothers Fiori, having redeemed the prebends from the Fiscal authorities, added them to their own, and since then they have been quite diligent in their duties towards the Church of Siena. Therefore, because of the financial difficulties in which the brothers Fiori are pressed, the Archbishop of Siena, fearing that everything might be lost unless some portion of the prebends is salvaged, while the rest are permanently relinquished, proposed a certain agreement, which he requested to be approved by the Most Holy Prince. — But it must be understood that the family of Fiori has received a loan of 30,000 Florins from the bank commonly called "Banca dei Paschi," and it was agreed that this sum would be repaid in annual installments over 66 years. Therefore, the Archbishop arranged the agreement in such a way that, indeed, the endowment...

[*Latin ed. p. 7*]

IF this benefit were to be alienated, and 50,000 florins were to be yielded through the favor of the patrons, 19,000 for the extinction of the remaining debt contracted in the year 1870, and 41,000 through a pious cause. With the permission of the Holy See, this agreement was demanded for execution; therefore, in the year 1896, the Treasurer renounced Lusini as the plaintiff in this cause. For he maintained that, according to writings published by the Sacred Congregation on this matter, it was not permissible to distribute choral funds from the common assets. Indeed, the rescript given on July

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19, 1880, reads as follows: "Concerning the Treasury, His Holiness has graciously permitted that, with the consent of the *Patronus*, daily distributions from the relative *praebenda* may be deducted; notwithstanding any contrary provisions." When the patrons, Fiori, were consulted regarding the consent concerning the Treasury, the Archbishop again requested that the indulgence be granted without this condition; provided that the patrons did not consent to this petition, as they had always opposed such requests; moreover, since the right to distributions in the Treasury did not arise from the foundation or endowment of the benefit, but from the generosity of Alexander P. VII, in the first place. Hence, the following rescript was issued on September 6, 1880: "On September 6, 1880. His Most Holy Lordship, having heard the report of the undersigned Secretary of the Sacred Congregation, and considering the newly presented matters, has graciously permitted the Archbishop of Senen, as an orator, that, provided the participation from the Mass of distributions on the part of the Treasurer does not arise from the right of the foundation or endowment, but solely from a privilege, he may freely distribute, according to his judgment and conscience, as requested; notwithstanding any contrary provisions whatsoever." By virtue of this rescript, in the executive decree of November 11, 1880, the Archbishop ruled that the Treasurer was not entitled to distributions derived from the common assets. However, Lusini argued that the act of execution had exceeded the judgment of the pontifical rescript, because distributions were not denied to him.

[*Latin ed. p. 8*]

8. From the Holy General Council, these [exemptions] arise from a mere privilege. – If this was persuaded to the Pontiff, it is contended that it occurred because of a fault of deception or trickery in the prayers. Therefore, these doubts were agreed upon by the representatives of the parties: 1. Does the Canon[ical] Treasurer have the right to participate in the distributions from the pious endowments of Capacci and Alexander VII, so that this right, as it appears from the number of Canon[ical] members participating, does not depend on, or rather, is not hindered by, the Pontifical decrees of July 19 and September 6, 1880; and also by the decree of the executor Archpriest Pierallini of November 11 of the same year? And to the extent that it is affirmative regarding the first part; 2. Are the distributions lost from the day of the acquisition of possession due to the Canon[ical] Treasurer? And to the extent that it is affirmative regarding the second part; 3. Does the opening of the case enter into consideration?

SYNOPTIC DISCUSSION. DEFENSE OF THE TREASURER.

The Treasurer's representative begins his argument, stating that it has become clear to him that the Pontiff's intention, expressed in the rescript, is

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that, before proceeding to prove the fault of deception, as the case requires, he wishes to discuss the right of the Treasurer, according to the rescript. He believes that he can demonstrate this purpose from two rules to be observed in executing rescripts. Firstly: That which is granted under a certain law, is not to be considered granted, unless this law is strictly observed. – "The rescript must be observed to the letter," *Rota coram Ghislerio, Gerunden. Sacristiae, diei 3 Iunii 1689 dec. 143, n. 1, p. VIII rec.* – "An indulgence or grace granted in a certain case is not extended to a different case." *Rota coram Cocchio, Romana Devolut. domus, diei 11 Mart. 1620, p. IV, t. 3, dec. 711, n. 16 rec.* – "A privilege granted under a condition does not take effect, unless the condition is justified." *Rota coram Cerro, Hispalen. De-*

[*Latin ed. p. 9*]

SEÑEN. 9, cimarum, diei 20 nov. 1651, p. X I , dec. 195, n. 4 rec. In altera: Si qua ex causa quid conceditur, id causa deficiente in posterum, re tractatum censeri. « Cessante causa privilegii cessat etiam ipsum privilegium ». Rota coram Piro vano, Tarraconen. Primitiarum, diei 27 Maii 1673, p. VII, dec. 212, n. 7 rec. Atqui, instat orator, Pontifex, sub certa lege, rogante Capitulo, distributiones a thesauriarato abiudicavit, nempe « dummodo participatio de massa distributionum ex parte thesaurarii non proveniat ex fundationis aut dotationis iure sed ex mero privilegio ».—Sed constat iuxta patronum, dotatione non privilegio, thesaurarium distributiones adeptum esse: ergo constat Pontificis rescriptum eius iuribus non officere: et iniuria, Pontificis auctoritate, a Capitulo distributiones denegari. — Iamvero, ait orator, privilegium, legem latam in privatos homines Tullius noster nuncupavit: « lex in privatos homines: id est privilegium » pro Dom. c. 17. — Beneficium aliquorum in commodum impertitum Poterius significavit: « quel gius singolare che è costituito in favore di alcuno » Pothier ad pandect. lib. 50, tit. 16, art. 177, vol. 6, pag. 1030. — Quod enim ad omnes pertinet, privilegii nomine designari non licet. — Hoc posito, ait patronus, ad privilegium demonstrandum, legem aliquam Thesaurario peculiarem afferre oporteret, quae effecerit, ut non debitae communi lege distributiones eidem illi obvenirent. — Sed distributiones quas suas vindicat Thesaurarius, ex communi fonte Auxerunt : et eadem ei debentur de causa, ob quam ceteris canonicis distribui solent. Siquidem testatur Archiepiscopus : « Il diritto delle distribuzioni al Rettore di quel benefizio (Thesaurariae) non emana da atto di fondazione (cosa che credo molto naturale), ma solo dalla munificenza di un illustre benefattore del Capitolo Metropolitano Senese, Alessandro VII, e dalla disposizione del fu Can. Salimbene Capacci. Però la Chiesa che per mezzo del suo capo visibile accordò un privilegio, può, attese speciali circostanze, per lo stesso mezzo sospendere...»

Translation:

SECTION 9, cimarum, on the 20th of November, 1651, page X I, decree 195, number 4, recorded. In another case: If something is granted for a cer-

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tain reason, that thing is to be considered terminated if that reason ceases to exist. "Where the cause of a privilege ceases, so too does the privilege itself." Rota coram Piro vano, Tarraconen. Primitiarum, on the 27th of May, 1673, page VII, decree 212, number 7, recorded. However, the orator argues that the Pope, under a certain law, at the request of the Chapter, granted distributions from the treasury, namely "provided that the portion of the distributions from the treasury does not come from the right of the foundation or endowment, but from a mere privilege." — But it is established, according to the patron, that the treasury received the distributions not by privilege, but by endowment; therefore, it is established that the Pope's rescript does not apply to its rights, and it is an injustice to deny the Chapter distributions by the authority of the Pope. — Indeed, the orator says, Tullius, our Cicero, called a law enacted for private individuals a "privilege": "a law for private individuals: that is a privilege," De Legibus, Book 1, chapter 17. — Poterius indicated that a benefit granted for the advantage of some is a "particular right constituted in favor of someone," Pothier, ad pandect. lib. 50, tit. 16, art. 177, vol. 6, page 1030. — For what pertains to all cannot be designated by the name of a privilege. — With this established, the patron argues, to demonstrate a privilege, it is necessary to present some particular law pertaining to the treasury, which would cause it to receive distributions that are not due according to common law. — But the distributions that the treasury claims are derived from a common source; and they are owed to it for the same reason for which they are distributed to other canons. Indeed, the Archbishop testifies: "The right to distributions for the Rector of that benefice (the treasury) does not stem from an act of foundation (which I believe is very natural), but only from the generosity of an illustrious benefactor of the Metropolitan Chapter of Siena, Alexander VII, and from the disposition of the late Canon Salimbene Capacci. Therefore, the Church, through its visible head, which granted a privilege, can, given special circumstances, by the same means suspend..."

[*Latin ed. p. 10*]

10 FROM THE HOLY GENERAL COUNCIL, to grant or to revoke that very privilege without the consent of him to whose benefit it was granted." Furthermore, the advocate notes, that the distributions of Capacci are a chapter inherited. – The privilege, if we examine the decree, continues the advocate, is opposed to a donation. "Provided that the participation in the distributions from the treasury does not originate from the right of the foundation or donation, but from a mere privilege." Therefore, if it is proven that a right arises from a donation, it has been proven that no right arises from a privilege; and it follows that the distributions are due from the treasury to the chapter. However, Capacci, it is noted, revealed what he thought with these words, and indicated what he commanded: "In all his other assets, whether stable, movable, livestock, debts and actions, and

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universally in all his inheritance, he instituted and intended his universal heir to be... the Most Reverend Chapter of the dignities and canons in number of the aforementioned Metropolitan Church of Siena, in the following manner and conditions, that half of these, that is, the aforementioned dignities and canons, alternately and week by week... personally attend and assist at all the canonical hours... and also at the Masses that will be sung." But he who endows, who establishes a new church with a suitable income, "He who attributes and assigns sufficient revenues to a church founded and built without a dowry." Reiff. ius. can. univ. ad tit. de iurep. 37, lib. 3, p. 1, n. 9; or who attributes new revenues to a church already sufficiently endowed. Reiffenstuel, loc. cit. – Capacci increased the revenue of the Senense Chapter with a new income; therefore, it undoubtedly endowed it. But the decree speaks of a donation in such a way that it does not define this type of donation. And we are not permitted to distinguish between categories where the law does not distinguish. Therefore, if the distributions from Capacci are derived from a donation, it is more clearly evident that the distributions from the Alexandrines are derived from a donation, the advocate notes. For the Chapter was not only endowed by the Pope with an attributed new income; but, without mentioning the word "endowment," he designated a generosity: "Both to new canonries and prebends, as well as to manual chaplains..."

[*Latin ed. p. 11*]

Siena. 11. "Erectis et institutis, nec non Archidiaconatu, Primiceriatu, Thesaurariae et aliis omnibus et singulis eiusdem Ecclesiae dignitatibus et canonicatibus ac praebendis omnia et singula dicti Prioratus... bona, domus, vineas, praedia, canones, responsiones, fructus et introitus, et iura quaecumque... pro dote dictorum novorum canonicatus et praebendae; nec non Archidiaconatus, Primiceriatus et Thesaurariae, ac Archipresbyteratus et singulorum eiusdem Ecclesiae Senensis Canonicatuum et Praebendarum, distributionum quotidianarum augmento, ut intra dividendo... perpetuo applicamus et appropriamur."

The advocate, recalling the saying – "cessante causa privilegium cessat" – notes that the reason which moved the Pontiff was, according to the Chapter's book, the wealth of the Treasury, for the book stated: "Not so (innovations must not be introduced) concerning the Treasury, which is the last of the canonical titles to be considered. Its prebend is the most ample of all the others in the Chapter. It is enough to say that it was reported to have a revenue of 5000 Italian lire: a report which will have been kept very low, having to serve as a standard for the tax on manual labor. The one invested with such a prebend does not need to contend for the common distributions with the other canons, for whom they are necessary means of subsistence. And if he must also have the distributions according to the prescribed canons, reason and necessity demand that they be taken from

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the ample prebend" (book, day of November 11, 1880).

Indeed, the Chapter had already alleged this reason when deliberating on the matter in the assembly. "It is not denied that in the past he had the right to the distributions... However, it is certain that the goods and rights of the treasurer, as of any other benefice, belong by high dominion to the Church, and that the authority of the Church, especially the supreme authority, can dispose according to what is required by equity and the greater good of this illustrious Metropolitanate. Now, it is requested that the authority establish that the right to the distributions on the patrimony is ceased for the Canon Treasurer."

[*Latin ed. p. 12*]

FROM THE COMMON CHAPTER OF THE HOLY COUNCIL. — The Archbishop later alleged this in order to hinder the Holy Father, who had ordered that the opinion of the Sansedonia family be inquired into: "I also wish to repeat what I said in my representation concerning the treasurership prebend, that this benefit, namely, has such an income that it greatly surpasses the revenues that accrue to all the other Canons who also enjoy distributions." (Arch. in the book of the day, September 29, 1880). This was proposed to him by the Very Reverend, after he had presented it to the Chapter that requested it: "His Holiness, considering the particular circumstances, graciously granted an indulgence to the Archbishop of Senen." (Rescript of the day, July 19, 1880). This opulence of the treasurership produced a rescript, the patron insists, and therefore, if this should fail, the rescript should be overturned: "cessante causa privilegii, privilegium cessat." However, it cannot be denied that, in our time, this opulence has diminished, according to the advocate. For after the laws that impoverished the benefices, the patrons, redeeming the benefice, paid a heavy tax to the Treasury (tassa di svincolo 24%). What they paid, they deducted from the endowment; furthermore, they obtained from the Holy Father that a portion of the revenues be given to alleviate their poverty (lib. 50000). What remained, the procurator states, was diminished by taxes (tassa di ricchezza mobile, manomorta, etc.). Consequently, the treasurership prebend was reduced by more than half; and where formerly five thousand [units of currency] were received, now not even two thousand [units of currency] are received annually. Furthermore, the patron notes, today the treasurership is of free, as they say, collation, for the patrons have renounced their right. But when the Chapter requested the Holy Father to exclude some canons from receiving distributions, it wished only to exclude those who were appointed canons by the patrons (canonicati di giuspatronato). It considered that if anyone should suffer a loss, it would be better for the canons whom the Archbishop did not designate to suffer it. If it is objected that today the treasurer receives a prebend that is richer than the other canons, the orator responds that, since the others receive distributions, they

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cannot also receive it.

[*Latin ed. p. 13*]

SECTION 13. Concerning the struggle with truth. For the Archdeacon, who is far richer, does not deprive the Treasurer of distributions. Furthermore, the advocate points out that, since the dissolution of the Chapter, almost none of the canons have suffered a loss, for they have retained half of the revenues. From this, the advocate argues, it follows that, since half of the revenues are divided among fewer canons, whereas before three thousand livres were provided to each annually, now only two thousand and five hundred livres are provided to each. Furthermore, the advocate points out that, in accordance with the established rule, the Treasurer's right concerning the canons is in some way dependent on the number of canons. "Does the right of the Treasurer to participate in the distributions derived from the pious endowments of Capacci and Alexander VII belong to him in such a way that this right does not depend on the number of canons participating?" And he maintains that, in accordance with the established rule, the Treasurer's right concerning the canons is in no way dependent on the number of canons. Indeed, the Chapter had urged that the number of canons be limited. "It is necessary to limit the number of participants to the indicated number, that is, that it not exceed the number of fifteen, and that it can scarcely be extended to sixteen, if one wishes to ensure that the canons who remain have sufficient means for their honorable maintenance." But the Pontiff did not heed these requests; for he made no mention of limiting the number of canons. However, the advocate argues that, even if the Treasurer's right is dependent on the number of canons, there is no reason why he should be excluded from the distributions today. Indeed, since the time of the decree of Archbishop Pierallini until our time, the number of canons has never reached 15. The canons were concerned that the patrimony should be distributed among fewer individuals. Thus, any portion would be larger. It happens that of the twelve places recognized by the treasury, some are, for the most part, vacant. Of the other seven canonries, three were either extinguished or left in suspense by Archbishop Pierallini. A fourth is retained by a canon who is living.

[*Latin ed. p. 14*]

14. During the time of the General Council, and consequently, those who are recognized by the treasury are counted among the twelve (Custodiatus). Quintus and Sextus have little hope of being restored, since there is a dispute between the patrons (Piccolomini); these are the Primiceriatus and the Canonicatus of Saint Mary of Bethlehem. Septimus is vacant, so that the expenses may be covered from its revenue, which the chapter bore for the redemption (liberation). Consequently, in these years, there have never been more than thirteen; sometimes barely eight; but now there are

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ten. Therefore, although they number fifteen, they should not exceed this number, according to the decree of Archbishop Pierallini; there would be room for a Treasurer, since five positions are vacant. In the final part of the prayer, the advocate speaks of the request for the opening of mouths in support, and he strives to prove that the chapter, in order to obtain the rescript, presented false accounts and concealed the truth. Therefore, the decrees are invalid, and a deceitful petitioner ought not to obtain what he asks for. To prove the deceit, the advocate notes that Archbishop Pierallini initially opposed the prayers at the beginning of the chapter, because he perceived that the prayers themselves were not sincere. But if he later approved, it was because the chapter, by insisting, finally persuaded the Sacred Prelate. To demonstrate this, the advocate presents a handwritten account of a canon, one of those present at that time, who, by order of the chapter, dealt with this matter. To this, the advocate adds the declaration of Canon Poenitentiarius Focacci, who, before obtaining the rescript, declared that he had no part and wished to have no part in this matter; it is clear that deceit intervened, and the rescript is vitiated by deceit. If one were to ask where the deceit lies, the advocate believes that it is easily perceived. In truth, the deceit that the chapter had suffered had halved its assets. For this reason, the chapter requested that, in addition to the twelve canons recognized by the government, only three from the canonries subject to the patronage of the laity be admitted to the distributions. If the sincerity of the prayers was important to the chapter, according to the advocate,

[*Latin ed. p. 15*]

SECTION 15. He was to petition that the canonical rights of lay patronage, by reason of their antiquity, be admitted to participation, so that, indeed, for the first time, those three [benefices] might be admitted who had been previously nominated; but if these were lacking, others would succeed. Against the wishes of the Chapter, he specifically desired that certain [benefices] be admitted, while others should be excluded, and he considered two [benefices] from the Piccolomine family to be admissible: the Archpresbyterate of the Chisio patronage, and the Canonry of mixed patronage. He excluded the others, either for a long time or permanently. But, the advocate insists, among the [benefices] which he considered admissible, there were two which, either never, or only after a long time, would be restored (the Piccolomine [benefices]), for the matter depended on the will of many heirs, who, engaged in lawsuits among themselves, were disputing. He omitted to mention another [benefice] (the canonry of mixed patronage) which was so poorly endowed that, shortly afterward, it was obtained by the Holy See and left vacant for a long time. Consequently, of the four [benefices] to be admitted, scarcely one could be foreseen to be easily restored. Therefore, it happened that only thirteen canons were present for one year. In the remaining years, scarcely 10 or 11, and some-

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times only 8, were counted. And this, as the advocate points out, was to the great detriment of those who participated.

DEFENSE OF THE CHAPTER. The patron, on the other hand, begins his defense by accusing the authors of the rescript of deceit or trickery; and he asserts that, from the very beginning, such an accusation cannot touch the most distinguished and highly praised men, namely, the Archbishop Pierallini, the Patrons of Chisio, and the Piccolomine family. Since no crime can be imputed to the good faith of these men, the advocate insists, nor can it be said that they are guilty of some customary and very serious violation of another's rights. For, according to the patron, it is only just that the apostolic rescript should have confirmed what, if one considers it, is true: that in colleges, the rights of each should be observed privately, but in the common good, the rights of the college should prevail. One thing is required by justice, that private property should not be harmed, but when that is lacking, nothing prevents...

[*Latin ed. p. 16*]

16. From the decrees of the Holy General Council, the rights of a future and uncertain successor are weakened, rights which are not yet fully established, and no one can claim them as their own. This appeared so evident to the Fathers of the Council of Trent, that they granted the power to decide to the Bishops by law, with these words: "It is permitted to the Bishops, with the consent of the Chapter, to reduce the number of canons to a smaller number, provided that there remain enough to adequately serve the divine worship and the dignity of the Church," chapter 15, session 24, concerning reforms. The orator states that the Chapter of Siena experienced this in the year 1783, when Archbishop Burghesio ordered that "if, by chance or by death, the first two canonries should become vacant in the future, then, from the aforementioned accumulated funds, those same canonries shall be suppressed from this moment forward, and understood to be so." Since these things are common in the matter of reducing benefits, therefore, the complaints raised by the advocate are, in his opinion, insane, concerning only the part of the income, and not perpetually, but only as long as necessity requires a reduction. It can be investigated with all due right and good faith, whether this suspension of income has occurred without a serious reason, or rather, due to necessity. But even the opponent cannot deny this, the advocate observes. He attempts several evasions, speaking of undue haste, of the *forma*, of an unnecessary patron, but he has never yet denied that a sufficient amount has been lacking to support the canons of the most noble church. Nor could he deny it, the orator continues, if the poverty of the Chapter has been proven for centuries. The very Pontiff Alexander VII, in his own time, testified in writing that the income and distributions were "so meager that they were in no way sufficient to decently support the Dean, the Prefect, the Archpriest, and each individual canon of Grado..."

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Regarding the current state of affairs, Bishop Pierallini wrote that half of the Chapter's income is withdrawn due to excessive taxes. In this distress of the Chapter's affairs, the advocate points out, in the year 1880, it was entirely proposed to either the Chapter or the Archbishop: either to reduce the number of canons, or to increase the accumulated income, suspending the *praebenda*.

[*Latin ed. p. 17*]

SECTION 17: Concerning the collation, or at least the distribution of revenues. But the number could not be reduced, since, of the fourteen canons, deducting those hindered by age or illness, there were not enough to suffice for the needs of the church. Therefore, the advocate notes, nothing remained but that they should seek new benefices from those that were vacant. But in the mind of the Archbishop and the Chapter, there was nothing more important than, for the sake of necessity, to maintain equity as much as possible. Therefore, since the Archbishop could, by law, suppress benefices, he decided only to suspend them. While this suspension encompassed all revenues, he excepted only the distributions. Although he had the right to decree a perpetual suspension, he decided to suspend only as long as the Chapter's resources flourished. The priest of Lusini, however, responded that, with all this, the necessity could indeed be proven to increase revenues through distributions, but that, for this reason, the benefice of the Treasurer should not have been harmed. The advocate objected, arguing that the opposing party had no right to bring the Archbishop's election into the matter. Indeed, the Holy Council of Trident, loc. cit., decrees that a Bishop can provide "from some of those [benefices] suppressed," and it does not inquire what are, by what name, by what revenue, by what means, other than the necessity itself and the consent of the Chapter. Furthermore, the patron continues, the intention of all was, in carrying out this business, that the suspension of distributions should affect the benefices of patronage rather than those of free endowment: for these are more permanent and stable, and are not subject to the danger of civil redemptions and the arbitrary will of patrons; which Lusini himself has demonstrated. Since Lusini admits this, the advocate urges, he must therefore admit that no other benefice could have been chosen than his own. For there were only eight benefices of patronage actually vacant; while five had a right to distributions, as the Archbishop has demonstrated. After the granting of suspensions by several patrons, the same could have been obtained from the remaining three. Furthermore, the benefices of the Priests could have been burdened.

[*Latin ed. p. 18*]

18 The General Council, the Titular See of Bethlehem, and the adversary himself attempted to achieve this, requesting that the burden of sus-

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pension be transferred from the Holy Order to its benefice, but they were rebuffed with the rescript: "As has been proposed, it does not seem expedient." However, the adversary too hastily asserted that the Chapter had acted improperly because the case that it feared had not yet occurred; and therefore, it should have waited until the case arose, so that it would be compelled to give distributions to the canons exceeding fifteen. But all of these things are very far from the truth, the advocate replies. For the Archbishop, indeed, showed that care should be taken to prevent the number from increasing prematurely in the future; but what he insisted must be attended to above all, namely, that the canons should not be burdened by a lack of resources, and since "the amount of the distributions... constitutes more than three-quarters of the revenues," he suspended some of the distributions from certain benefices so that the present canons might receive more: for which purpose direct requests had been made. The Holy Father approved of all of this, and did not define any term, whether of days, or of a day, or of the present, or of the future, within which the Archbishop should act; rather, "considering the particular circumstances, the Archbishop, with the benevolent indulgence of the Senior Advocate, was permitted to suspend, for a period of ten years, the nomination of the canonry commonly called 'delia Custodia,' for the purpose of which the requests were made, and also two canonries of the noble family of Piccolomini... freely, at his own discretion and conscience." Furthermore, with regard to the Treasury, the Holy Father likewise graciously permitted that, with the consent of the patron family, the daily distributions from the relative benefice might be deducted. The adversary is mistaken, according to the patron, when he says that the benefices which could have had a right to distributions in the year 1880 had not yet reached fifteen, by including those who were actually participating, with those who, from the very first moment, could have been admitted to this right. Moreover, beyond the number of twelve recognized by civil laws, five participations were to be added for two benefices from the patronage of the noble family.

[*Latin ed. p. 19*]

SECTION 19. Piccolomini: concerning two benefices, one belonging to the family of Chisia, and the other to the family of Diaz; for civil law does not diminish the rights of the possessors of benefices as long as they live. Therefore, there are seventeen participations; which increase to nineteen if two are added, one of which is due to the parish priests for a suitable increase, according to the decree of Archbishop Borghesi; the other, according to the capitular law concerning the division between the theologian and the penitentiary. The lawyer observes that it should not be surprising that not all of these participations were actually paid at the time of the prayers, for whoever fears danger, and intends to prevent it, will not wait for the damage to occur before taking precautions. But the opposing party

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insists that in the year 1880, the entire matter was discussed between the Chapter, the Archbishop, and the Sacred Congregation, so that no one would intervene on behalf of the Treasurer to defend his rights. However, the defender replies that, if one were to ask whether a defender of the vacant treasury should have been appointed by either the Archbishop or the Sacred Congregation, nothing could be more unheard of and injurious.

A father is not appointed as tutor; but the father and tutor of the benefices in his diocese is the Bishop. Furthermore, the Council of Trent decreed that, except for the case of a benefice belonging to the true patronage, it granted "to the bishops, with the consent of the Chapter," the power to suppress it. The defender endeavors to prove that the Treasury itself does not consist in what has been observed, noting that the Supreme Pontiff wrote to Archbishop Pierallini on July 19, 1880, stating that distributions from the Treasury could be taken "with the consent of the patron's family." The Archbishop offered new prayers, noting "it can be reasonably considered positive that if the patron's family of the Treasury were consulted to give their consent, they would oppose it," because for eight years, despite the Archbishop's repeated requests to name a treasurer, they had refused, in order not to lose the profits from the revenues they had usurped; and when pressed by foreign funds, nothing less should be expected than that they would abandon the possessions they held.

[*Latin ed. p. 20*]

20. The adversary attacks, citing the testimony of the Archbishop, and responds that his patrons are "truly religious" – and this, he claims, is demonstrated by the fact that the Supreme Pontiff Leo XIII had appointed one of them as his secret chamberlain. However, the Treasurer previously wrote: "And concerning the Treasurership, it could be foreseen at that time (in the year 1880) that it would easily disappear," because the patrons had claimed the assets of that office. The Treasurer wrote: "They were not alone in being unwilling to render to the Church what was her due. This neglect stemmed from misunderstandings between them and the Curia, and from their precarious financial circumstances." The Treasurer wrote: "The patrons might have refused their consent, but not for any other reason than to avoid harming the benefice." Furthermore, the testimony of the present Archbishop in the records of the year 1896, addressed to the Most Holy Order, is added: "The gentlemen, the brothers Fiori, find themselves in such critical financial circumstances that a serious catastrophe is feared for their patrimony." Moreover, concerning the change in circumstances invoked by the adversary to correct the rescripts, the patron argues that it is, nevertheless, just and valid. He states that, after sixteen years, the situation has recurred to the very point from which it could not have begun. In the year 1896, it happened that the income of the benefice, which

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had previously been estimated at five thousand crowns, decreased to two thousand crowns, after Lusinius received the institution. However, both the Archbishop and the Chapter, in the year 1880, used this very reason – that the Treasurership was particularly well-endowed – to reduce the distributions from the benefice. Therefore, a significant change in circumstances has occurred, and justice forbids that rescripts, even pontifical ones, should be maintained when the circumstances that gave rise to them have changed. The advocate responds to this objection, pointing out that the decree of the Council of *Tridentinum* concerning the suppression of benefices, so that the Chapter may not lack sustenance, is absolutely binding, and once demanded for execution, it can never be revoked, even if the patron...

[*Latin ed. p. 21*]

SECTION 21. The plaintiff argues that the damage suffered is excessive. He contends that there is only one circumstance that could justify the opportunity to correct or modify these perpetual constitutions, namely, if a large increase in revenue were to occur, thereby eliminating the necessity that led to the establishment of the endowment in the first place.

Therefore, the change in circumstances should not be assessed based on the benefit that it allegedly conferred, according to the plaintiff, but rather on the Chapter, to which all assistance must be given. If the Chapter is to survive, an annual addition of one thousand gold coins is required, which the Bishop is obligated by law to provide, and this amount must be taken from certain benefices. Consequently, the plaintiff argues that, if, perhaps, in the year 1896, or at the time of the granting of the rescript, the revenues of the treasury endowment had been calculated as an annual income of two thousand gold coins – the amount that the opponent claims to receive today, even if the pontifical rescript had been obtained – then, by law, the endowment would have been justified, because if the necessity existed to suppress the endowment, it would be all the more possible to reduce the distributions.

However, the plaintiff continues, although the reduction of distributions could have been decreed without condition, the Archbishop Pierallini, in the decree of execution, for the sake of equity, stipulated that everything must be preserved "during the current financial situation of the Chapter," and that it may be possible to make changes "when the finances of the Chapter are restored over time," and finally: "When, in the future, unforeseen circumstances or significant changes in the financial situation of the Chapter should arise that require special measures, we reserve to ourselves and our successors the right to consider reasonable proposals from the Chapter, and, with its advice, to decree and order what is deemed expedient in the Lord."

Therefore, the change cannot be opposed by the beneficiary, because it cannot be demonstrated that there is a necessity on the part of the Chapter,

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the speaker continues, and he points out that even the benefit itself does not today reflect any necessity, because the opponent admits that, even after the reduction in revenues, "Whether we want it or not, the treasury endowment is of greater income."

[*Latin ed. p. 22*]

22 FROM the decrees of the Council concerning other prebends; and among those of the dignities, it is not inferior to all. The advocate, advancing to the other side of the controversy, namely concerning the condition imposed by the Pontiff, namely "with the consent of the patron," observes that the Archbishop asserted that he had presented new petitions, stating "it is dangerous to ask the patrons of the Treasury for consent and renunciation of the distributions"; and furthermore, that true patronage cannot be admitted in these distributions because "the right to the distributions for the rector of that benefice does not arise from an act of foundation (which I consider to be very noteworthy), but only from the munificence of an illustrious benefactor of the Metropolitan Chapter of Siena, Alexander VII, and from the beneficent disposition of the late Canon Salimbene Capacci." The Supreme Pontiff confirmed this distinction in law, adding the condition to the concession "provided that the participation in the mass of distributions from the part of the Treasurer does not arise from the right of foundation or endowment, but from a mere privilege." The Archbishop, having "verified that the things presented in the chapter project submitted to us, and in the petitions made in our name to the Holy See, are perfectly true," decreed: "Regarding the treasury prebend, we order, by virtue of the powers granted by the aforementioned decree of September 6th, that the rector or rectors who will be appointed from time to time shall not have the right to receive the common distributions, but these are derived from the prebend itself." The opponent contended that the treasurer's right to participate arises from the foundation, and therefore the decree has been violated, since in the case of a foundation, the patron must be heard; but, on the contrary, the advocate previously inquired whether there was any patron who should be heard. The advocate, however, replied that the action concerning the patrons was taken in error, because it concerned only the distributions which arise from the donations of Canon Capacci and Alexander VII; but the Fiori family is concerned with distributions from other donations.

[*Latin ed. p. 23*]

SECTION 23. He could not obtain any patronage for himself. – The Pontifical rescripts demonstrate that this concerns only the distributions. The first states: "Regarding the Treasury... it is permitted that, with the consent of the patron of the family, daily distributions from the relative benefice may be taken." The second states: "Provided that the participation in the Mass of the distributions does not come from the Treasury, either from

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the foundation or endowment, but solely from a privilege, the Archbishop may, according to what is requested (that is, in the absence of a patron)... grant the distribution." If it is objected that at least some title can be devised so that the patron of the benefice may be heard even for the distributions, because, once these are taken away, it clearly follows by law, and corresponds to the first Pontifical rescript which states that "daily distributions from the relative benefice may be taken," the advocate, in matters arising from common law, maintains that Bishops can, and must, obey the law, without being obliged to hear the Chapter or the patrons. Indeed, the holy Council of Trent (chapter 3, session 21 on Reforms) "decreed that in cathedrals and collegiate churches, in which there are no daily distributions, or in which they are so meager that they are practically neglected, one-third of the fruits and of all revenues and emoluments, both of dignities and of canonries... must be separated, and converted into daily distributions." The law does not distinguish: and therefore it includes benefices, whether they are subject to free patronage or to legal patronage. Therefore, it is not permitted for patrons to interfere with this office of the Bishop, unless some condition exists in the foundation, as Garcia states in *de benef. part.*, 3, chapter 2, n. 492 – ibid. – Finally, it must be noted that "even dignities and benefices which are subject to legal patronage, even of laymen, are subject to the deduction of one-third of the fruits, as the Holy Congregation judged in a case from Milan, with these words: dignities which are subject to legal patronage are subject to the deduction of one-third of the fruits, unless the foundation contradicts it." The advocate maintains that patrons cannot be called the authors of the distributions, noting that Salimbenius, in *omnium ea-*.

[*Latin ed. p. 24*]

24 FROM the decrees of the Council, concerning new benefices and dignities, the usefulness of which is established, it is decreed: "To his universal heir... the Reverend Chapter of the dignities and canons of the metropolitan Church of Siena," so that "all the fruits and revenues, whether manual or otherwise, of his entire inheritance shall be given and distributed, as is said, in proportion to the service rendered by each." It is not necessary for the testator to express his will, for it is established that, even in the case of a builder, there must be "an expression of the will" as taught by Gagliardi in *de iure patr.*, volume I, chapter 6, number 5, namely: "Two things must concur in order for a builder to acquire a patronage: first, an expression of the will that the building be done with the intention of acquiring a patronage, otherwise it would be attributed rather to charity and the benefit of the soul; and secondly, etc." Regarding the donation of Alexander VII, it is noted that he only claimed the right of patronage for his successors from the foundations of the canonries, and established nothing concerning the increase of benefices or their distribution. Concerning the foundations, the

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following is read: "The right to present and nominate suitable persons to the archpresbyterate, canonry, and the aforementioned custodianship, to vacant benefices, through the Ordinary of the place, and to establish presentations of this kind, is granted to the aforementioned Flavio Cardinal, as long as he lives, and after his death, to the noble Mario, his brother, and to Augustine Chisio, Prince of Farnese, his nephew by the flesh, and to each of them during their natural lives, and after the death of each of them, to the firstborn son of Augustine, born of him, and from the firstborn to the firstborn, preserving the order of primogeniture... we reserve, grant, and assign perpetually." However, Cardinal De Luca warns: "He who establishes or endows [something] does not acquire [the right of patronage] if it is clear that he did not intend to acquire it." *de iure patr.*, discourse 55, number 20. But the Archbishop supposed that the matter concerned patronage, saying: "Considering that there are some [provisions] that imply a derogation, although partial, from what was established in the donation bull of Alexander VII and in the will of the canon Capacci... I feel the need to resort to..."

[*Latin ed. p. 25*]

SECTION 25. "Your Holiness, therefore, with the fullness of Apostolic authority, grant [etc.]." Thus requested, the Pope ordered that the consent of the patrons be required. Then the Archbishop observed that true patronage was not established by the donations of Alexander and Salimbenii, writing: "The right to the distributions to the rector of that benefice does not arise from an act of foundation, but only from the generosity of an illustrious benefactor of the Sienese Chapter, Alexander VII, and from the benevolent disposition of the late Canon Salimbeni Capacci." And the Pope considered that the consent of the patrons should be dispensed with "provided that the participation in the mass of distributions from the part of the treasurer does not arise from the right of foundation or endowment, but from a mere privilege," as the Archbishop had judged. After a short time, the procurator stated that the rescript placed the origin of the matter, whether from foundation or privilege, in a condition that was, in effect, null, because of an error in the Archbishop's opinion. Therefore, the advocate insisted, although the Apostolic See does not usually derogate from true patronage, namely from foundation or endowment, it certainly derogates from the right that arises from a privilege. For "he who receives a privilege against the Apostolic See, which grants him the privilege, must not use his privilege against the Apostolic See. Therefore, it can derogate from and revoke a gracious patronage at will, and extinguish it with an express revocation." Gagliardi de iure patr., cap. 8, n. 35. Using this distinction, in the final decision, the Pope decreed that the consent of the patrons was not required, provided that "the participation in the mass of distributions from the part of the treasurer does not arise from a foundation or endow-

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ment." But the opponent contended that a participation was due to him from the donations of Alexander VII and Salimbenii. - The patron replied, first of all, that Alexander VII, after new benefices had been established and endowed, and after certain augmentations, had constituted the remaining accumulation of distributions for all canons and dignities in such a way: "And whatever, after satisfaction, as mentioned above, remains from the revenues of said priory, all of that shall be..."

[*Latin ed. p. 26*]

26. "From the decree of the Council, it must be perpetually and equally divided among the individual six dignities and twenty canonries and prebends, the increase of the daily distributions." Therefore, a simple question arises from this decree: does this participation originate from a foundation or donation? The Archbishop states: "The right to these distributions for the holder of that benefice does not arise from an act of foundation, but only from the generosity of an illustrious benefactor, etc." The advocate argues, as the opponent believes, that after noting that only the distributions of the common fund derive from a foundation, it must be considered in a very different way regarding the Alexandrine [scholarships]: and that "the distinction that has actually been made and is made in the Chapter, as it must be made in accordance with the Bull of Alexander VII, between the distributions of the principal fund, which depend on the right of foundation or endowment, and the Capaccian and Morellian distributions, which depend on the free beneficence of two eminent citizens of Siena," must be maintained (Libellus, in the records). Furthermore, the patron points out that his own endowment could not have been included in the sum of distributions, because the revenues are uncertain; and sometimes perhaps, none at all. However, under these conditions and in this respect, a true endowment is not constituted in the legal sense for the patronage. For this reason, the Pontiff distinguished in his constitution between rights arising from justice and rights arising from privilege: the endowment in his own benefices, and the increase of distributions in all [cases]. Regarding his own benefices, he granted the right of nomination "not from an Apostolic privilege, but also from a mere, original, real, and actual, full, complete, and all-encompassing foundation and perpetual endowment." However, when proposing revenues to be paid, both for his own benefices and for others, he recognized the principal fund as an endowment, and the increase of distributions in all [cases], ordering "All and each of the aforementioned priory's... goods, houses, vineyards, for the dowry of the aforementioned new canonries and prebends, and also (for all benefices equally), archdeaconries, primiceriates, and treasuries, and archpresbyterates, and of the individual canonries of the same church of

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Siena, and..."

[*Latin ed. p. 27*]

SECTION 27: Concerning increases and distributions of daily revenues, as will be explained below. However, the advocate argues that, according to the law, an increase in the dowry does not confer the right of patronage unless the increase exceeds the dowry itself, as testified by Gagliardi in *De iure patronato*, chapter 8, paragraphs 8 and 9: "In matters concerning patronage, the burdensome aspect must be considered more than the gratuitous and lucrative aspect, and it must prevail therein. Indeed, if the increase in the dowry exceeds the original dowry, or at least equals it, or if it has restored a church that was completely ruined, then the grant of patronage is considered a burdensome privilege, pertaining to the title of justice, rather than a gratuitous one; therefore, the nature and prerogatives of patronage belong to the sphere of justice. Conversely, if the new dowry does not equal the original dowry, nor has it rebuilt the church from its foundations." Pitonius defines the measure in this way: "To increase the dowry to the extent of half the revenues is to assign such revenues as the church possesses from its own property." *De contr. patr. all.* 58, paragraph 40. Whoever increases the substance of a benefice within a two-year period is honored as a benefactor; but he cannot acquire the rights of a dowry-giver. Thus, Gagliardi, *op. cit.*, chapter 5, paragraph 40: "Benefactors are to be distinguished from founders and dowry-givers. A benefactor is considered to be one who either provides an insufficient dowry at the time of the foundation, or who increases the dowry of a church that has already been founded and adequately endowed, or who repairs the walls of a church that has not been completely destroyed; and, consequently, these individuals are not considered to acquire the right of patronage, as the doctors unanimously teach from the canons already cited. For it does not seem fitting that the right of patronage should be acquired for ecclesiastical benefices for no reason, or for a slight and easily remedied reason, and especially when it prejudices the rights of others," says Innocent VIII. The advocate notes that this observation also applies to the donation of Salimbenia, which, although it did not provide anything, nevertheless named an heir. However, the advocate argues that there is no doubt that the increase in the dowry has exceeded the original dowry, especially since we are dealing with the wealthy Treasury.

[*Latin ed. p. 28*]

28 FROM THE SACRED GENERAL COUNCIL. Since that which is not derived from common law cannot originate from any other source than from special and private law, Gagliardi, in the aforementioned place, chapter 4, paragraphs 1 and 2, it clearly follows that patronage, if it exists, can only be attributed by a privilege; therefore, the patron concludes. Finally,

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concerning another doubtful formula, namely, concerning past distributions, which the plaintiff claims from the day of acquiring possession, the patron objects the fundamental principle that fruits received in good faith by the possessor must be retained, De Luca, on the law of patronage, discussion 62, under number 12, and that a complaint cannot be maintained in this regard, unless against a possessor acting in bad faith. Ibid., on Feuds, discussion 122, number 4. But no one will contend that the canons have consumed distributions received in bad faith, which the plaintiff claims, after having received them by order of the Pontiff, the advocate argues. With these premises established, the following questions were proposed to be clarified: Question 1: "Does the Canon Treasurer have the right to participate in the distributions derived from pious endowments of Capacci and Alexander VII, so that this right does not depend on the number of participants, or rather, do the Pontifical decrees of July 19 and September 6 of the year 1880, and also the executive decree of Archbishop Pierallini, of November 11 of the same year, apply in this case?" And, to the first part, an affirmative answer; to the second part, a negative answer. Question 2: "Are the distributions lost from the day of acquiring possession due to the aforementioned Canon Treasurer in this case?" And, to the first part, a negative answer; to the second part, an affirmative answer. Question 3: "Does the intervention of an arbitrator apply in this case?" RESOLUTION. The Sacred Council, after deliberation on April 7, 1900, decided to respond as follows: To Question 1: The Canon Treasurer is to be admitted to the distributions in question. To Question 2: Negatively. To Question 3: Provisionally.

[*Latin ed. p. 29*]

ON THE MATTER OF MARRIAGE. July 31, 1897; September 10, 1898; and June 23, 1900. Session 24, chapter 5, concerning the nullity of marriages. COMPENDIUM OF THE CANON LAW. On March 26, in the year 1879, in the city of Clavarensi, recently erected as a diocese, Philomena, 17 years of age, entered into a marriage before the Church with Jerome, both of them from the city of Bonearensi, having also completed the civil formalities. After the marriage was consummated, the newlyweds, after a brief sojourn in Europe, returned to Bone Aerem. But this marriage, begun with a favorable omen, did not have a happy outcome. For shortly after, Philomena began to experience ailments, for which it was necessary to consult experts in the art of medicine, who, after a more thorough examination, reported that Philomena suffered from such a defect of the body that she was unfit for the completion of the marriage. Given these circumstances, harmony between the spouses could scarcely be hoped for; and indeed, disagreements and disputes arose between them. Therefore, Jerome, after several years of married life, having learned that his wife suffered from a permanent and incurable infirmity, and after obtaining a decree of personal separation from the civil court, appealed to the ecclesiastical judge, requesting that

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his marriage with Philomena be declared null. And indeed, the court of Bonearensi on August 20, 1884, rendered a judgment, in which, after a preliminary examination of the plaintiff, Jerome, and his spouse, the marriage was declared null due to a pre-existing and permanent infirmity of the woman, according to the opinion of three experts in the art of medicine; and at the same time, the man was granted the faculty of entering into new marriages, but this was forbidden to the woman. However, the defender of the bond appealed this judgment to the higher court, namely, to the Curia Paranen.

[*Latin ed. p. 30*]

30 FROM THE DECREE OF THE COUNCIL, which on December 4th of the same year confirmed the judgment of the first instance. In this most miserable situation, the woman, with her parents residing in Europe, began to use the familiarity of a certain relative, Mr. Peter, who, according to her own account, moved by mercy, began to take care of her. According to Philomena, at first, they behaved as brother and sister, but over time, they conceived the plan of entering into marriage together; and two years later, namely on May 24, 1886, they attempted to celebrate the marriage before the parish priest of St. Ferdinand, in the diocese of Bonaire, informing him of the woman's condition. Having entered into this new marriage, the newlyweds consulted celebrated experts in medicine regarding the woman's illness. The doctors performed several surgical operations on the woman's body, and, as it is said, with some success. Indeed, as the plaintiff asserts, the cure was such that she regained her normal female constitution, and that she now feels as any other woman would. Therefore, Philomena, wishing to consult her own conscience, appealed to the Supreme Court, demanding that, after a dispensation from the valid but unconsummated marriage with Mr. Jerome, she be granted the faculty of confirming the union contracted with Mr. Peter.

A SYNOPTIC DISCUSSION.

DEFENSE OF THE WOMAN. And the first argument of the plaintiff's defender, regarding the first doubt, affirms that the judgments of the Courts of Bonaire and Paranen must be declared invalid, because the judges, disregarding the legal criteria that must be applied and which are prescribed by law, based their judgment on a false assumption of the plaintiff's impotence. For, the advocate says, if they had strictly observed the wisest provisions established by canon law, they would not have used the testimony of a seventh witness to ascertain not only Philomena's integrity, but also her aptitude for procreation, according to the Instruction

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issued on August 22, 1840.

[*Latin ed. p. 31*]

BOOK III, CHAPTER 31, concerning the procedure in matrimonial causes: "Indeed, all witnesses must be questioned concerning the causes which impede consummation." It is considered that they erred, relying solely on the testimony of physicians, despite the observations and objections of the defender of the bond, who is appointed by law, and thus falling into error. Furthermore, the advocate continues, it is necessary that judgment be based on the expertise of those skilled in the art; but these experts are not to be considered infallible, so that other aids prescribed by law, which more securely reveal the truth, should be disregarded. In this matter, Pope Gregory XVI, in his celebrated decree of November 10, 1834, *Regolamento Legisl. e Giudiz. § 720*, cautions: "Judges are not obligated to conform to the opinion of experts against their own conviction." Therefore, according to the advocate, the aforementioned judges acted imprudently, not considering that the art of surgery is essentially experimental, and that it can achieve marvelous results, especially in our times. But, the defender argues, whatever may be said about the scientific and moral excellence of the physicians who examined Philomena's body, the fact is that they were shamefully deceived, as they testified: "We unanimously agreed to affirm that the aforementioned lady certainly presents a very marked, not temporary, but absolute, impotence, not subsequent to the marriage, but prior to it, that is, congenital." However, the actual outcome showed the opposite. Given the deception of the judges, who declared the woman's impotence in the matter, it is evident, says the advocate, the validity of Philomena's prior marriage with Jerome, and the nullity of the second marriage attempted with Peter. In this matter, reference is made to the decree of Pope Innocent III, Cap. VI, title *De frigidis et maleficiatis*, whose clear doctrine states: "A woman separated from her husband, because she could not be known by him, had relations with another man; Innocent III responds that the marriage must be restored, when it is evident from subsequent events that she was known to him, with whom she was mingled." Therefore, it is clear...

[*Latin ed. p. 32*]

32 From the Decrees of the Council it is noted: In the case where a wife, being closely united to her husband, after separation marries another to whom she is not closely united, and through frequent intercourse with the second, she becomes suitable even to the first, in this case it is not easily judged, since the final judgment depends on the future, because indeed it must be judged from the future whether the woman was known to the first husband, or not." Thus, the most learned Pontiff. Furthermore,

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the advocate continues, the union between Philumena and Jerome was absolutely impossible, and remains morally impossible with regard to the future; therefore, according to the speaker, the previous disposition of the Canons cannot be adopted in this matter. For the case is not similar. And the distinction arises primarily from an error concerning the qualities of the person: since Jerome was not aware of the defect of vaginitis, by which his wife suffered, nor did Philumena herself have knowledge of it before the marriage. And although this infirmity could be cured, the cure was certainly long and arduous; and even if she recovered, intercourse would always remain difficult with him, towards whom the woman felt little sympathy. Indeed, the remedies for vaginitis, as the authors teach, are found primarily through the diligent dilation of the vaginal opening by the hand of a surgeon, and then maintained and preserved through frequent and prolonged conjugal acts. But Jerome did not undertake these things, nor did he even consider doing so. Therefore, the advocate says, since a new union between them cannot be established, the matter can be resolved in this case only through a dispensation from a consummated marriage. Therefore, proceeding to the second part of his argument, the advocate affirms that there is no doubt that the marriage in this matter was not consummated. For the disease of vaginitis, by which Philumena suffered, rendered consummation impossible; so that it came to pass that three most learned Doctors in medicine and surgery, appointed by the judge, found that she had a contraction of the nerves which govern the genitals, which is the true definition of vaginitis; and that the excellent Courts of Bonaire and Paranae rendered a judgment of nullity based on their testimony.

[*Latin ed. p. 33*]

55. BONAREN. Indeed, it is not permissible to suspect, according to the advocate, that the account given by the Medicis deviates from the truth concerning the existence of vaginismus; for the error of the physicians concerned only the incurability of the disease, and therefore the supposed perpetuity of the impotence. And there are not lacking causes for granting a dispensation, such as the aversion of the woman, and the danger of incontinence on her part. And this, according to the advocate, stems from the nature of the defect, from which his client was freed by a surgical operation, namely, vaginismus, the remedies for which, as the orator says, are clearly perceived from the teachings of the physicians, through continuous and diligent dilation of the vagina. It proceeds further from the very nature of the woman herself, who is by no means to be considered frigid, since she is now experiencing the sensations of pleasure to the highest degree. Moreover, the orator observes, the actress cannot be considered less worthy of being granted the grace of a dispensation, considering her moral conduct. For her advocate has demonstrated before the Bonaren court that she was entirely irreproachable in her first marriage, proving that she was unaware

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of the defect of vaginismus, and that if she sometimes displeased her husband, these were matters to be attributed to the most grievous injuries, which he himself had inflicted upon her. Indeed, the marriage contract which she entered into with Peter is worthy of the utmost consideration. For he concealed nothing from her concerning her condition, and he himself, as if living with her as a brother and sister, had consented. And thus it can be explained why a woman, otherwise religious and honest, dared to enter into a second marriage, sinning, it is true, more through levity than through wickedness of spirit, as is the case with many women. Now, repentant of her actions, she desires nothing more than to be joined to Peter by a legitimate bond. Finally, the advocate adduces the last cause for the dispensation from the dishonorable conduct of Jerome, who, while living in a conjugal relationship with Philumena, fostered adulterous affections. Therefore, the orator continues, if the mere suspicion of adultery provides a cause for a dispensation, as taught by the *Consilia* of Separators, 461, 16, no. 269, and as has been repeatedly held by the Holy Council Congregation, as can be seen in the *Acta*, Volume XXXIII, page CCCLXXXV, 3.

[*Latin ed. p. 34*]

54. From the records of the Sacred Congregation, in Albinganen, marriage record, September 10, 1801, it is evident that the woman in question has suffered the injury of repeated adultery, which she has endured. Reaching the final part of her plea, the advocate maintains that the actress is capable of consummating the marriage; provided that the case involves a curable form of vaginismus. For, the advocate argues, whenever carnal union can take place in a proper manner between spouses, the marriage can, indeed, must, subsist; and if union has already occurred, it is a matter of law. And proper union occurs when the male seed enters the female vagina, or when man and woman become one flesh. And this constitutes the power of cohabitation, while impotence is nothing other than the inability to have offspring, which, by itself, neither prevents nor dissolves the marriage. St. Thomas, 4, Distinct. 35, question 1, article 2, ad 3; St. Antoninus, book 4, chapter 15, number 6, with commentary. Indeed, the advocate insists that the woman is in this precise condition, as testified by the physicians, who are better able to judge this matter than others. Two doctors of the city attest to this under oath. However, the advocate himself seeks to resolve the difficulty that might arise from what the aforementioned expert witnesses have observed, namely, the closure of the vagina and the imperfect development of the uterus. The advocate asks, has the defect, if it persists, been observed in the area of the vagina near the uterus, and would it, even if present, prevent the woman from admitting the man for a perfect union, by which, of course, his vessel would be penetrated, and his seed poured into it; and therefore, the marriage would always subsist? This impotence, which would consist in the closure of the vagina near the

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uterus, is not enumerated by the theologians; and Capellmann, who was the first to mention it, has been vigorously refuted by the Reverend Father A. Eschbach in his work, *Disputationes Physiologicae Theologicae*. It can scarcely be otherwise, the advocate argues, regarding the imperfection of the uterus, with which the client is said to suffer. "Although the uterus is not perfectly developed." A certain woman...

[*Latin ed. p. 35*]

SECTION 35 concerns the womb and ovaries, and it has been made clear to all that, unless the womb is cut, no physician has ever dared to assert that it is not present. On this matter, Saint Albert the Great writes: "Women possess a specific organ, called the womb, in which the seed is received, and the embryo is formed. But it is most difficult to define its existence and condition." Furthermore, the advocate continues, although a woman without a womb cannot bear children, she is nevertheless not necessarily barren – concerning the conception of offspring. "This absence," says a certain distinguished doctor from Louvain, "does not essentially prevent fertilization. In other words: the existence of the womb is not necessary for the conjugal act to be essentially capable of generation." However, the speaker points out, the matter at hand is not about the absence of the womb or ovaries, but rather about a less perfect development of the womb; it is now certain among all that a woman can conceive, provided that at least one ovary remains in her.

OBSERVATIONS OF THE DEFENDER OF THE SACRED BOND. From Aversa, the defender of the matrimonial bond maintains that the marriage between the actress and Jerome, contracted on February 29, 1879, was not only valid, but that there are also further arguments by which it is permissible to judge that the marriage was consummated. Therefore, proceeding to the proof, he first affirms the sentences of the judges of Boneares and ParanÃ¡, which declare that Philumena is not afflicted with a defect of nullity that would render her unfit for the conjugal act. For the judges of Boneares and ParanÃ¡, with ears open, having heard the arguments of Jerome, that is, of the advocate, failed to have the witnesses swear the seventh oath. This omission carries with it the nullity of the proceedings. Sánchez de Matrimonio, book 7, disputation 108, number 9: "The omission of the seventh oath would render the judgment of relatives invalid. Furthermore, in book 7, at the end, concerning frigidity and malice, the Pontiff lays down the oath as a prerequisite for dissolving the marriage due to impotence. And since this is a form of proof prescribed by law, the omission vitiates the judgment."

[*Latin ed. p. 36*]

36. Furthermore, what is more detrimental to the case, the testimony of the physicians Joseph Lopez de Morelle, Theodorus Alvarez, and Ig-

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natius Piro, who examined the body of Philomena, upon which the revised judgment is based, is, in itself, dubious and laughable. Indeed, in a matter so grave and difficult, the testimony of experts is only valued when it is established, as far as human weakness allows, that the experts cannot be deceived nor can they deceive. Hence, certain precautions have been instituted by law, especially that there should be more physicians involved, so that each may conduct their examination separately, and that each may write a report before knowing the testimony of the other experts; so that an honest matron, always present, seeing and hearing everything, not only safeguards honesty, but also eliminates the danger of collusion. However, in the present case, the experts Lopez de Morelle, Alvarez, and Pirovano performed all tasks simultaneously, and wrote their report, without the presence of witnesses or judges, as if they were one. With these points established, the defender, presenting the testimony of those physicians as evidence, affirms that it is entirely contrary to the truth, since it contradicts other testimonies of physicians, presented at a time not suspected of bias, and also contradicts the facts themselves. The defender of the sacraments is greatly astonished by these testimonies, so that he cannot in any way understand such a discrepancy in judgments. Therefore, he asks, where were the eyes of those archpriests who told Philomena that "she could perform the functions of marriage," and did not see that infamous defect, "a fund of a sack, as long as a finger and of the same diameter"? Moreover, continues the orator, the aforementioned physicians of Bonaire proclaim Philomena's impotence, stating: "Not temporary, but permanent; not relative, but absolute; not following marriage, but existing before it, that is, congenital." Such testimony, according to the orator, does not deserve to be considered trustworthy.

[*Latin ed. p. 37*]

CHAPTER 37, based on the facts narrated. For the aforementioned woman, after recounting the attempted marriage with D. Peter, confesses as follows: "The aforementioned Peter sought out several physicians to care for me; and while I was constantly offering novenas in supplication to the Most Holy Virgin, praying that she might inspire the mind of some physician to assist me in this grave condition, I was, on a certain auspicious day, advised to consult a certain physician who was most skilled in this matter (a specialist). I went to him; and what joy was it when I heard from the doctor, whose name was Molina, that I could regain my normal state of health through a surgical operation? The operation was performed first by the doctor himself, and then by two others. That doctor used to say, 'How can physicians know what lies beyond this membrane? Only by removing it can it be discovered.' After the operations, I recovered; and now I know that I am different than I was before; now I experience passions and sensations that any other perfect woman might experience." Having stated

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this, the advocate asks about that membrane, which the doctors Lopez, Alvarez, and Pirovano described as "quasi un fondo di sacco di un dito di longitudine ed altrettanto di diametro" [almost like the bottom of a sack, a finger's length long and of the same diameter]; which no human being can remove, because it is "congenita, non temporanea, sibbene perpetua" [congenital, not temporary, but perpetual]; and which the doctor Molina tore as if it were a thin spider's web. Nothing is more astonishing than this membrane, according to the defense. For not only does it grow and diminish like the moon, but it also multiplies, disappears, and reappears again. The defect of Philumena's genitals is evident, if the doctors Topai and Petacci, as well as Philumena and Peter, testify that they were very different when the physical examination was made by the aforementioned expert Molina, and then when Philumena's body was examined by the aforementioned doctors Lopez, Alvarez, and Pirovano. Indeed, Molina found: "Avere la Signora V ostio vaginale fortemente chiuso" [that the Lady V had the vaginal opening strongly closed], and upon opening the vaginal opening, he found: "il tramite vaginale terminante in fondo cieco, di modo che fu necessario praticare altra alta apertura per rintracciare e" [the vaginal passage terminating in a blind end, so that it was necessary to make another, higher opening to trace and].

[*Latin ed. p. 38*]

38. From the records of the Council, it is stated that the cervix uteri [uterine cervix] was exposed. Conversely, the doctors Lopez, Alvarez, and Pirovano not only deny the existence of a closure of the vaginal opening, but furthermore, they assert that such a closure does not exist at all. Furthermore, the advocate continues, the infamous defect disappeared through an incision performed by Molina, so that Philumena and Peter were able to have relations. However, despite this, Philumena subsequently relapsed into impotence. Regarding this matter, the same experts, Topai and Petacci, state: "The opening at the bottom of the vagina was completely closed. After a careful examination by us, we found the vaginal passage to be open for approximately seven centimeters, and completely closed at the top. We believed it necessary to reopen the abnormal bottom of the vagina in order to re-establish communication with the uterus, and thus to allow the completion of the conjugal act." Therefore, the advocate continues, on June 24, 1884, Philumena's vulva, or vagina, appeared to be "of the length of a finger and of the same diameter." When the doctor Molina later examined Philumena, he noted: "The lady had the vaginal opening strongly closed... the vaginal passage was short and terminated in a blind end." After the doctor Molina performed a double incision, all the defects disappeared. In the year 1894, the doctors Topai and Petacci discovered: "The opening at the bottom of the vagina was completely closed... they had to reopen the abnormal bottom of the vagina in order to re-establish communica-

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tion with the uterus, and thus to allow the completion of the conjugal act." Here, the advocate asks, on March 26, 1879, when the marriage between Philumena and Jerome began, what was the condition of the infamous membrane? Was it one or rather two? Did it completely close the vulva, either at the beginning or at the end, or both? Did it persist continuously until the year 1884, when the conjugal life was disrupted? All of these things must be demonstrated clearly. And indeed, if Philumena and Jerome cohabited even for a moment of time, with the obstacle or impediment removed, the mother-

[*Latin ed. p. 39*]

IN THE MATTER of No. 39, perhaps the marriage has been consummated. However, there is doubt whether the marriage has been sufficiently or even at all consummated, so that the case of Philomena may proceed, since it is not permissible to grant a dispensation unless it is certain that the marriage has not been consummated. Therefore, it concludes that there is no basis for granting a dispensation regarding the marriage attempted by Philomena on May 24, 1886, with Peter, but rather Philomena must be referred to the proper authorities under Chapter 5 of the Code concerning fraud and malice in order to revert to her previous state of virginity. With these premises, the following questions were proposed: I. Whether the judgment of the Courts of Buenos Aires and Panar should be confirmed or rejected in this case? And, negatively: II. Whether it is necessary to consult with the Most Holy Fathers regarding a dispensation for the marriage, whether valid or not, between Philomena and Jerome in this case? And, affirmatively: III. How should provision be made in this case? RESOLUTION. The Sacred Office, on July 31, 1897, responded: The proceedings should be extended and completed according to the instructions to be given by the defender of the bond, by virtue of his office. The question was again raised in the General Congregation on September 10, 1898, with a new supplementary process. But the Most Eminent Fathers again decided to postpone the resolution, in order that the medical experts Molina, Rosciano, and Porro, who examined Philomena's body, might be heard. Regarding this matter, it was written to the Court of Buenos Aires to summon Doctor Molina, and after he had taken the oath to speak truthfully, to question him as to whether, when he examined Philomena's body, the external opening of the vagina was closed, or whether there was only an internal impediment that blocked the vaginal canal; whether the surgical operation performed by him...

[*Latin ed. p. 40*]

40. FROM THE deliberations of the Sacred Council, it was determined that the matter should be limited to removing this impediment within the vagina; namely, what the length of the vaginal canal was; and finally,

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whether Philomena, before the operation, was suitable for having marital intercourse in such a way that the marriage could be consummated. Doctor Molina, questioned by the Court, responded: "Philomena did not have a vagina, because it was entirely closed. She did not have a vaginal canal, and the hymen may have receded perhaps due to the force of intercourse." He added: "The operation performed consists of forming a vagina by detaching the bladder from the rectum, and creating a canal of the dimensions of a normal vagina; it was observed with great diligence whether the uterus or a vestige of it was found at the bottom, and my opinion (of Doctor Molina) is that there is no trace of the internal genital organs; and finally, I am of the opinion that the Lady Philomena, before the operation, was not suitable for having a true and perfect marital intercourse, so that the marriage could be consummated."

OPINION OF THE CANONIST. The cause's merits indicate: I. That Philomena is today suitable for conjugal duties. This is established from the sworn testimony, both written and oral, of the doctors Petacci and Topai: "We, the undersigned, on the 14th of February, 1894, went to examine the Lady Philomena, wife of Mr. D. Pedro. We were told that they had not been able to perform the marital act, but after the surgical intervention, because the Lady had a very closed vaginal opening. They added that the surgeon, having opened the vaginal opening, found the vaginal passage to be short and ending in a blind end; so it was necessary to perform another operative act. However, due to the Lady's lack of perseverance in the necessary treatment to preserve the obtained result, the opening at the bottom of the vagina closed completely. After a careful examination by us..., we concluded that it was necessary to reopen the abnormal bottom of the vagina in order to establish communication with the uterus, and thus to..."

[*Latin ed. p. 41*]

BONEAREN. 41. It was possible to complete the conjugal act... After a few days from the performed opening, there was a bloody flow, preceded and accompanied by symptoms that usually occur during the menstrual period. Furthermore, we must add that the sexual characteristics are so well developed in this woman that it must be inferred that she does not lack the essential organs for generation, although the uterus is not fully developed. Consequently, we judge that in the current state, there are the essential conditions to perform the marital act." In an oral examination held in July 1898, to the question: "Do you believe that in the current state, the essential conditions for the marital act exist in Miss Filomena?" both answered: "Affirmatively." The defender of the marriage bond believes that, despite this, Filomena's ability remains doubtful. But, with all due respect – for it does not befit us to object, since he frequently rebukes consultants with a harsh tone: "lest they overstep their bounds" – he states

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that nothing new was induced by the incision made by the aforementioned doctors: for the vagina was made longer and both *pervia* (Werfen) were affected, and communication with the uterus was restored, which, indeed, in the opinion of any doctor or canonist, is sufficient to say that the woman can be considered fit for marriage. Nor should you say that the existence of the uterus is uncertain in this case, because, as we will soon see, the expert witnesses and Dr. Molina, at least, doubted it; and therefore, it is not permissible for Filomena to enter into a new marriage. For 1°. The expert witnesses, fulfilling the mandate to examine and not to incise the woman, did not use any incision to look inside to see what existed behind the membrane that closes the entrance to the vagina; Dr. Molina, however, took care to form a vaginal canal of normal length, but did not attempt to explore the matter more deeply with an instrument: 2°. Even if the absence of the uterus were not doubtful but certain, Filomena would not necessarily be forbidden from a new marriage; for we know that O...

[*Latin ed. p. 42*]

42. From the Sacred Council of Trent, it was inquired whether a woman, to whom both the uterus and the ovaries had been removed, should be prohibited from marriage; it was answered that marriage should not be impeded. II. The second matter, which I stated to be evident from the records, is that the marriage between Philomena and Jerome remained unconsummated. This remained so because Philomena suffered from an inability to have intercourse, not only until the year 1884, when the conjugal life was dissolved – and this is sufficient for the most ardent defender of the bond – but also beyond the year 1886, or while Philomena was living with Peter as a wife. The matter will become clear through the testimonies of experts and of the parties involved, that is, through physical and moral arguments. Three doctors from Buenos Aires, Lopez, Pirovano, and Alvarez, who, at the judge's command, examined Philomena, swore under oath that she suffered from a manifest inability to have intercourse, not temporary, but permanent, absolute, and preceding the aforementioned marriage. The same witnesses testify that Dr. Molina reported on the physical condition in which he found Philomena after the marriage she attempted with Peter in the year 1886; and the weight of this testimony is increased by the fact that the doctor not only examined the woman, but was the first to have a deep understanding of her condition, and therefore speaks with greater knowledge of the case. The judicial experts and Dr. Molina are in agreement with the doctors Petacci and Topai, both in fact and in word: in fact, because even after the operation performed by Dr. Molina, they judged it necessary to perform another operation to render Philomena fit for marital relations, which clearly shows that they believed the woman to have remained in her natural state, unable to have intercourse; and in word, because, when questioned judicially about the examinations of those doctors regarding

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Philomena's condition before the first operation, they affirmed that she was then unable to generate and also unable to have marital intercourse. Indeed, regarding the question: "Has there been mention of a lack of vagina, of a closed vaginal opening, and of a vaginal passage?"

[*Latin ed. p. 43*]

BONEAREN. While forty-three minutes had passed, and considering the situation of a closed blind ending, I would like to know if such defects are an absolute impediment to the conjugal act? Doctor Topai responded: "Understood in the sense of procreation and the true conjugal act, yes." Doctor Petacci responded: "With this operation, the impediments have been removed." Previously, he had explicitly stated: "If such impediments exist, 'a complete, that is, internal, act could not be performed, but only an external one, and always outside the vagina, because then the vaginal opening was closed.'" However, there seems to be some discrepancy between these two doctors regarding penetration within the vagina; indeed, Doctor Topai believes that some penetration was possible, saying: "I absolutely exclude that the marital act could be accomplished in relation to its intended purpose, but that a partial insertion could be made, I believe." In contrast, Doctor Petacci, with the words cited above, stated that penetration could not have occurred. However, this apparent discrepancy is not real. For, that membrane, which was completely smooth, without folds, prominences, wrinkles, or hardness, and which Doctor Molina rightly calls the hymen, and which, as I say, this hymenal membrane, closing the entrance to the vagina, was extended inwards, as Molina says, by five or six centimeters - like a funnel, Schroeder, manual of obstetrics, p. 538 -; and it is true that some penetration could have occurred, as Topai believes; and it is true that what Petacci says is also true, that the act of intercourse was merely external, for it did not occur in the natural vagina, but on the concave membrane of the vagina, which closed the entrance. Furthermore, it is important that they agree with other experts in this matter, that in Philomena's condition, true conjugal intercourse could not have been fully accomplished. The force that Philomena has in her marriage with Jerome, the aforementioned six doctors attempt to weaken, and a most astute defender of the bond offers three arguments, in which he provides not a little assistance.

[*Latin ed. p. 44*]

44 FROM S.C. CONCILI, concerning the patron of Saint Philomena. I. The defender argues that the learned men of Bonaire were shamefully mistaken concerning the permanence of his client's impotence; however, the defender concludes that their account is ridiculous, and therefore no credence should be given to them, even concerning the existence of the impotence.

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R. 1: Granted that the aforementioned doctors erred concerning the permanence, it does not necessarily follow that they also erred concerning the existence of the impotence. For the judgment concerning permanence is often very difficult, as Gasparri states in volume I, § 584, and even the wisest can err in it; however, the judgment concerning existence, when supported by touch, sight, and, today, the use of numerous instruments, is easy, and rarely errs. Furthermore, in this case, this judgment was confirmed by successive examinations by the doctors Molina, Petacci, and Topai, which excludes any doubt of error.

R. 2. It is asserted too confidently that the learned men of Bonaire erred concerning the permanence of the impotence. Indeed, for impotence to be considered permanent, in the legal sense and for the purpose of annulling a marriage, it suffices if the defect, which prevents intercourse, cannot be removed without a certain risk to life, or, according to some, without a serious inconvenience, as Schmalz states in 4, 15, n. 4; Sánchez states in 7, 93, n. 18; St. Alphonsus states in 6, n. 1096; Lehmkuhl states in 2, 745; Vecchiotti states in 3, § 104. But how do we know that there was no risk to life in this case? We know this only from the happy outcome of the surgical operation. But is a happy outcome of any event, by itself alone, a certain argument that there was no risk? If that were so, it would have to be said that there was no risk to the sailor who escaped from the shipwreck onto the deck, the soldier who returned unharmed from the midst of battle, the person afflicted with a pestilent disease who unexpectedly recovered, and so on. But these are different things: therefore, the outcome of the operation in this case establishes nothing certain against the permanence of the impotence. On the other hand, evidence for the existence of the risk is provided by a) the authority of the three aforementioned experts, who are said to be outstanding in their art; b) the fact that no one,

[*Latin ed. p. 45*]

In Buenos Aires, forty-five physicians, besides others who examined Philomena before Doctor Molina, dared to attempt [an operation; indeed, the renowned Doctor Porro openly stated that the operation could not be performed without danger to life]; c) the very nature of the operation, for it was not a simple incision of a membrane, but a [deep and extensive section; therefore, Zacchias, book 3, title 1, question 7, paragraph 29, states: "If a membrane is the cause of the obstruction... when it is dense, thick, and strong, it is absolutely necessary, especially when it is located internally, that a woman bleed profusely, that a great effusion of blood occur, and that severe pain intervene;... therefore, this operation is performed with great and evident danger." And other, more recent physicians, hold the same opinion in similar cases, as can be seen from their accounts in Albingano, September 7, 1895; Salerno, March 14, 1863; Verula, January 24, 1871; and Monasterio, December 16, 1899. Therefore, the judgment of

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the physicians of Buenos Aires is, even with regard to its antiquity, very weighty. At most, today, after the fact, one might somewhat doubt the certain existence of the aforementioned danger, but it is not serious to present these physicians as shamefully deluded, and to call their accounts ridiculous, thereby inferring that their judgment regarding Philomena's physical condition has no weight. 2°. The eminent defender of the bond, opposed to the authority of Doctors Pirovano, Alvarez, Lopez, Molina, Petacci, and Topai, opposed the authority of the physicians Gastan, Pastore, Rosciano, and Porro, of whom the first is said to have, in 1879, three months after the marriage, recognized signs of pregnancy in Philomena, while the others seem to have said that intercourse with her was not impossible, but difficult. R. 1: We did not receive this information from them in writing or verbally; indeed, Doctors Rosciano and Porro, when questioned about this matter, responded that they did not remember whether they had ever examined Philomena; but they recounted it from their former spouses, although not in a consistent manner: for, according to Doctor Pastore, Jerome said that his wife was impotent due to a defect of the uterus.

[*Latin ed. p. 46*]

46. From the testimony of the Most Holy Council; Philomena stated that she had been told that the operation was not necessary, and that intercourse, although difficult, could be achieved; both doctors said that Doctor Rosciano believed the operation should be performed; Philomena stated that she consulted this doctor again, while her husband was away, and he told her that intercourse could be had even without the operation, although not without difficulty. Regarding the doctor, Philomena further stated: "He said that there was no need for an operation, because having it would put her life in danger, and that, furthermore, he considered that her husband could make use of marriage, albeit with some difficulty... The opinion of this professor, however, proved to be an enigma to me, in the sense that he did not give a categorical and explicit answer to any of the few questions that I dared to put to him." From these statements, it is clear how much caution must be exercised when judging the opinions of these doctors, not based on direct testimony, but on hearsay; hearsay not from competent persons, but from persons ignorant of medical matters; hearsay not given in a consistent and precise manner, but in a contradictory and uncertain manner. I say, it is clear how much such a judgment must be weighed against direct, explicit, and sworn testimonies from six experts of proven knowledge and integrity.

R. 2: Directly: Doctor Gastan clearly erred; but this is not surprising, for on the one hand, the diagnosis of pregnancy in the early months is extremely uncertain – *extrêmement incertam* – Man. compi, de med. leg. p. 121; Belouino, *La femme* p. 35 apud Eschb. q. phys. mor. p. 87; on the other hand, it is not at all established from the records that the esteemed

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defender, as he claims, Doctor Gastan internally examined Philomena's genitals. As for the others, they not only do not exclude the existence of a membrane occluding the vagina, but they openly admit it while speaking of the operation, which is more or less necessary, more or less dangerous. And what they have said, that even without the operation, intercourse could be had, albeit with some difficulty; whether they said this seriously, or whether they said it "to not take away all hope, all illusion from a young woman of 19 years of age, who was, could be..."

[*Latin ed. p. 47*]

NAILA. 47. It is said that she, recently married, – as the American defender of Philumena states – that this, I say, does not contradict the true marriage, because, provided that membrane persists, it could not have been consummated. Indeed, the former spouses sought a remedy not for penetration into that short, abnormal channel, for which there was no difficulty; "but, as Jerome says, the resistance lies not in the narrowness, but in the lack of necessary depth"; but they sought a remedy for deeper penetration, or for the perfection of the act, which was hindered by that membrane. Therefore, the response that the doctors Pastore, Rosciano, and Porro gave to Philumena – namely, that an operation was not necessary to achieve the desired end, and that the husband could, albeit with difficulty, have intercourse – could only mean that Jerome, with repeated efforts, without the aid of surgical art, could break through the membrane and consummate the marriage. It is therefore clear, according to the opinion of these doctors, that perfect intercourse between the aforementioned spouses could not have taken place unless that membrane was removed. However, it is certainly known that Jerome, throughout the time that the woman was with him, was unable to break that membrane: therefore, even according to the aforementioned doctors, the marriage between the aforementioned spouses remained unconsummated. 3°. The defender of Philumena states that, for the marriage to be consummated, some penetration and insemination within the womb are sufficient, notwithstanding the occlusion of the vagina. However, the defender of the marriage argues that, in this case, there was repeated penetration and insemination within the womb: therefore, the aforementioned marriage was consummated. JR. denies both premises of the argument. The major premise is false, because perfect intercourse, by which marriage is consummated, – as I have extensively explained in the vote concerning the Monastery, December 1899 – must essentially have some relation to the primary end of marriage (S. Th. suppl. q. 65, art. 1), a relation that theologians express with the words "copula apta ad generationem"; but intercourse, or penetration and insemination within a womb that is

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completely occluded, by the very nature of the occlusion, is –

[*Latin ed. p. 48*]

4>8 From the Holy General Council, it is absolutely and intrinsically established – by its very nature, the union [of marriage] lacks, I say, any relation whatsoever to the primary end, because of the defect of one of the two essential organs of copulation. Therefore, the Holy Office, in the aforementioned decrees of Salerno, Albingana, Verula, and Monasterien, in which the sole cause of impotence, as demonstrated by physicians, was "complete occlusion of the vagina," rightly and justly declared the marriage to be null or consummated. This doctrine is not contradicted by the fact that the law of the decretals speaks only of female impotence arising from the cause of constriction: for it is clear there that constriction is to be understood not strictly, merely as the occlusion of the external opening of the vagina, but broadly, as any impediment in the vaginal canal that prevents true coitus, a) from the nature of the thing itself, because positive law cannot derogate from natural law; b) from the rubric of the title, which is about frigidity and witchcraft and the inability to have intercourse, where this broader term, "inability to have intercourse," sufficiently indicates that, within the body of the title, whatever impedes true conjugal union is to be understood under "frigidity" and "constriction"; c) from the analogy with frigidity, although, strictly speaking, frigidity denotes only the inability to attain an erection, nevertheless, Sixtus V declared certain men to be impotent on the grounds of frigidity, even though they were otherwise capable of an erection. Hence, Zacharias, no less excellent in both law and the medical art, holds that constriction, according to the law of the decretals, includes not only external, but also internal, closure of the vagina: "For, indeed, there are so many and such causes that impede the power of coitus in men, that only one is that which prevents it in women, namely, the closure, constriction, or narrowing of the external and internal openings of the uterus (vagina), as is well noted in chapter Fraternitatis, § immediately preceding." Quest. m. I, lib. 3, tit. I, q. 2, n. 22. And elsewhere, when enumerating various cases of internal constriction, distinct from constriction due to the hymen, he says that these cases are included by the canonists under the term "closure" which arises from the hardness of the hymen, lib. 9, tit. 3, q. 5, N. 3, 4, 5, 6.

[*Latin ed. p. 49*]

BONEAREN. 49 To support his proposition, the defender introduces even Zachias, as if to teach that an internal occlusion of the vagina never impedes the consummation of marriage, nor in any kind of occlusion. However, Zachias teaches precisely the opposite: for in book 9, title 3, question 5, which is the passage cited by the defender, acting "Concerning the impediment to coitus on the part of the woman," he establishes as a gen-

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eral rule that this impediment arises not only from the hymen (due to its hardness and thickness) but also "from a membrane distinct from the hymen, from flesh and the union of the lips, or the walls of the uterus itself... these impediments most often occur in the very neck of the uterus (vaginal canal)" numbers 3, 4, 5, 6, 7. Then, as an exception, he says that a membrane, which is placed higher, or deeper, does not impede "sometimes" the consummation of marriage, but not always. But when? "If the membrane is *pervia* through some or many openings." And he repeats this in consultation 72, where he also says, as far as he sees, that marriage can be consummated, even though a membrane separates the passages of the uterus (vagina), "provided, however, (a *sine qua non* condition) that it is *pervia* through some or many openings." Question 1, consultation 72, numbers 11, 12. Therefore, whether Zachias teaches generally that the inability to have intercourse can arise even from internal atresia, or whether he makes an exception for the case of a membrane placed higher and perforated – which exception confirms the rule in the opposite direction for a membrane placed towards the external opening and completely occluded – he does not favor the opinion of the defender, but our own. But even if a greater proposition were presented, the argument would not be supported; for the minor proposition is manifestly false. In the case, namely, when the opening of the vagina is blocked by a membrane or hymen in the form of a short canal – a classic case of the decretals, namely, constriction on the part of the front – penetration does not occur into the natural vessel or into the vagina, but into the membrane blocking the opening of the vagina: and this manner of copulation is never considered to be a consummation of marriage. Acts, Volume XXXIII, page CCCLXXXV. 4.

[*Latin ed. p. 50*]

50 FROM THE HOLY GENERAL COUNCIL, concerning the matter of the Lapponi: "For the regular completion of the conjugal act, it is not sufficient that the male member penetrate and that semen be emitted into any cavity whatsoever, without internal connection to the female genital passages, even if that cavity is a mere rudiment, a fraction of the vagina. "And this is so true that in cases in which a woman has an imperforate hymen, the marriage is never considered consummated until the hymen remains intact; although repeated attempts at intercourse (as in our case) have singularly pushed it, like an inverted glove finger, into the vagina, forming of it (the hymen) an artificial vaginal canal, which doubles the natural vaginal canal and enters into the cavity of the latter." (cited in Albinganen, September 7, 1895). After these things, I believe it is safe to agree with the judgment of the aforementioned physicians concerning the marriage, regarding its lack of consummation; all the more so because, to physically prove it, whether by the old or the new method, they require much less. Chapter: Concerning the proof proposed; chapter: Concerning the fraternity of frigid and mali-

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cious individuals; instruction of the Holy Congregation, August 22, 1840; instruction of the Holy Office, without date; instruction of the Holy Office, June 20, 1883, page 2, article 5. Now, a few words about the moral argument, or about the sworn testimonies of the parties. Jerome, when questioned in a cause of nullity, as to whether he had consummated the marriage, replied: "(that) the consummation of the marriage could not be effected because he found resistance in the body of his wife." When questioned by the defender of the bond: "whether he always found the same difficulty in consummating the marriage," he replied: "Yes." When questioned: "Whether he clearly manifested what the resistance consisted of that he found in consummating the marriage," he said: "that it consisted not in narrowness, but in a lack of necessary depth, because, in his opinion, it was no more than two fingers." To this, he added that throughout his conjugal life, he had left nothing untried to make his wife and spouse unhappy.

[*Latin ed. p. 51*]

V. 51. Ut aliquid ad rem afferatur, necesse est quod remedia proponantur; itemque quod inspectiones posteriores et operationes chirurgicae cum dictis eius plena concordant. Nec obstat, ut contendit illustrissimus defensor, quod Hieronymus aliquando putaverit uxorem suam utero gestare; nam hoc accidit tempore primorum nuptiarum, antequam defectus naturae mulieris a medicis determinaretur, et ex consilio doctoris Gastan, qui – ut apparet ex contextu depositionum utriusque coniugis – Philumenam intra non examinavit. Verum est quod, in his circumstantiis, Hieronymus putavit conceptionem post coitum suum imperfectum secutum esse, cum mox audiemus Zachiam dicentem conceptui aliquando non obstare atresiam vaginalem, et hodie physilogae paene universaliter docent ex semine vel ad ostium vaginae apposito generationem sequi posse. Philumena interrogata in eodem judicio nullitatis: « Dicat si credeat consummatum matrimonium aliquando quando cohabitavit cum marito suo », respondit « quod ei videbatur ita ». Sed referunt doctores Petacci et Topai se accepisse a Philumena et novo marito eius « quod ipsi non potuerunt consummare actum matrimonialem, postquam interventum chirurgicum factum est, quia Signora Philomena ostium vaginale habebat valde clausum ». Verum ex praedictis facile explicatur diversitas inter depositiones utrasque: scilicet Philumena, cum in judicio deposuit, nondum sciebat in quo praecise consisteret suam imperfectionem, nam nullus medicorum, quos consuluerat, ei de hac re apertissime locutus erat; sed doctores Gastan, Pastore, Rosciano et Porro videri poterunt contra illius impotentiam. Ideo, licet dubitare potuit – mi sembra di sì – de consummatione matrimonii per illum quemcumque congressum, quem saepe cum Hieronymo habuerat. Sed post inspectionem juridicam et operationes chirurgicas successivas, de suo vero statu certior facta, iuxta notionem, quam de hoc statu sibi efformaverat,

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locuta est.

[*Latin ed. p. 52*]

52 FROM THE SACRED COUNCIL. Furthermore, the aforementioned medical reports demonstrate that there is no contradiction between these conjugal expressions: "The resistance did not consist in distress, but in the lack of depth... The second marriage could not be consummated because the Lady Filomena had the vaginal opening strongly closed." For, since the vaginal opening was covered by a solid and imperforate hymenal membrane, yet not tense, but concave and somewhat projecting inwards, as the aforementioned reports of the judicial and medical doctors of Molinae clearly indicate, it is evident that some penetration into the cavity of the membrane, firmly closing the vaginal opening, could easily have occurred. Moreover, as the opinion of Bonearen rightly notes, "above these declarations – the depositions of the parties – whose value is always doubtful, stands the irrefutable testimony of science alone, which is competent to resolve such a case." Considering all of these things together, and having pondered them, it appears that Filomena suffered from an inability to have intercourse, and that this impediment existed not only during the entire time of her marriage with Jerome, but also for two or three years after her new marriage with Peter. Therefore, I believe that the non-consummation of the first marriage can be morally certain: I say, a moral certainty, which should inspire a prudent fear of error, not a dialectical certainty, which excludes all possibility of error. We use the former extensively in both internal and external forums; if anyone were to demand the latter in either, they would plainly fall into absurdity and deserve to be justly reproached for absolute caution. III. Thirdly, it is not entirely certain whether the female impotence that prevented the consummation of the marriage was permanent. Certainly, a danger to life, inducing a juridical permanence of impotence, must be certain and evident. However, in this case, although, as I have indicated, the danger seems to have been present, yet after the operations which the doctors Molina and Topai performed with unwavering confidence and successful results, the evidence of this danger is not sufficiently evident. Therefore, I believe – assuming the non-consummation is established – that provision should be made.

[*Latin ed. p. 53*]

BOXEAREN. 53. In this case, at least for the sake of caution, not by a decree of nullity, but by a dispensation from a valid but unconsummated marriage. IV. And the causes for granting a dispensation – which were proposed in the fourth place from the beginning – are not lacking in this matter. This argument is pursued extensively and elegantly by the Reverend Father Philomena's advocate in his opening address, in which he presents three reasons that the Sacred Congregation's jurisprudence and

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the common consensus of Doctors consider suitable: namely, aversion of affections without any hope of reconciliation; the removal of scandal and the danger of souls, especially since Philomena, through a new marriage attempt, is found to be devoted to Peter V; to these, I would add a fourth and most efficacious reason, namely, a virtually certain impediment arising from the head of permanent impotence, which, however, was subsequently happily removed. With these considerations in mind, the following questions were proposed to be clarified: I. Whether the opinion of the Courts of Bonearen and Panaren should be confirmed or rejected in this case. And, to the extent that it is negative regarding the first part: II. Whether it is necessary to consult with the Most Holy Congregation regarding a dispensation from a valid but unconsummated marriage between Philomena and Jerome in this case. And, to the extent that it is affirmative: III. How provision should be made in this case. The RESOLUTION of the Sacred Congregation, after deliberation on June 23, 1900, decided to respond as follows: Regarding I, provision will be made in the second [part]. Regarding II, affirmatively. Regarding III, write to the Archbishop according to his instructions. The DECREE, by which the suspension is established, must be immediately incurred by any cleric who, through internal conflicts and political contentions, offers any kind of assistance. In disturbances and internal conflicts, in which civil authorities are sometimes strained, it has happened in recent years that ecclesiastical men, drawn by the pursuit of a party, voluntarily bind themselves to one or the other political faction, and act against canon law.

[*Latin ed. p. 54*]

54. From the decrees of the Holy Council, they would not fear to do or attempt more, trusting that they would easily obtain absolution afterward. Wishing to remedy this grave evil, Our Most Holy Father Leo XIII, adhering to the dispositions of the Most Holy Council of Trent, Session XIV, in the prologue and Chapter IV, as well as Session XXII, Chapter I, concerning reform, and having before his eyes the teaching of Benedict XIV in *Institutiones*, 101, by these present letters of the Holy Council, establishes and decrees that, in the future, whoever from the clergy, in any way supports internal conflicts or political controversies, shall abandon his proper place of residence without just cause, which must be recognized by legitimate ecclesiastical authority; or who shall lay aside his clerical garments, even though he has not taken up arms, and certainly even more so if he has voluntarily offered his services in a civil war, or has dared to direct military actions in any way, even if he continues to wear ecclesiastical garb; shall immediately be suspended from the exercise of his orders and degrees, and from any ecclesiastical office and benefice, and shall moreover be rendered incapable of obtaining any ecclesiastical office or benefice in the future, until he has been restored by the Apostolic See, depriving the respective

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Diocesan Ordinaries of any power to grant dispensations for this purpose, even if they enjoy the most common, or customary, or extraordinary faculties for rehabilitating clerics: all contrary things not withstanding. Given in Rome, from the Holy Council, on this 12th day of July, 1900.

A. CARD. DI PIETRO, Prefect.

B. ARCHIEPISCOPUS NAZIANZENUS, Pro-Secretary.

FROM THE HOLY CONGREGATION OF BISHOPS AND REGULARS, OF CRACOW, OR OF THE ORDER OF CARMELITES OF THE ANCIENT OBSERVANCE.

SENTENCE OF EXECUTION REGARDING THE GRANTING OF ADMINISTRATION OF THE PARISH OF SAINT STEPHEN.

On March 16, 1900. In Cracow, formerly the capital city of Poland, now under Austrian jurisdiction, in the year 1803, the suburban parish church of Saint Stephen, collapsing in ruins, lay in ruins, and, with the Austrian government taking care, the care of souls in this...

(The text is incomplete.)

[*Latin ed. p. 55*]

From the acts of the Most Holy See and the regulations, number 55: The church of the Fathers of the Carmelites was transferred, and a portion of the convent was assigned for the residence of the parish priest and vicars, with a sum of 500 florins of Polish currency designated for the use of the novitiate, with the favorable support of the religious. However, this sum remained suspended for the future, since in the year 1812, by a previous decree concerning religious orders, and with the insistence of the Curia of Cracow, the Order of the Carmelites in that city was suppressed by a decree or brief of the Most Holy Pope Leo XII, and the assets of the parish of Saint Stephen were assigned to it. In the year 1830, by decree of Pope Pius VIII, and in response to the repeated prayers of the Senate and clergy of Cracow, the Order of Carmel was restored, with its assets, privileges, and exemptions restored to it, and a suitable decree was issued by the Apostolic Nuncio of Vienne, in which, in its execution, the Bishop of Cracow added certain conditions foreign to the tenor of the decree, and from which the religious appealed to the Holy See, but without the desired result. Therefore, neither the portion of the convent for the novitiate was restored, nor was the agreed-upon pension or sum paid, but rather, the religious were burdened with the obligation of assisting the parish priest at their own expense, and, in the absence of such assistance, of providing secular priests. In the year 1856, the parish of Saint Stephen being vacant, it was relinquished, and the Carmelites approached the Curia of Cracow and the Caesarean Government of Regium, requesting the transfer of the parish of Saint Stephen from their church to the church of Saint Anne. The Vicarius Capitularis of Cracow recommended these prayers to the Holy See

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for Apostolic approval, which, on March 17, 1857, approved the petition of the Carmelites and granted the aforementioned Vicarius the necessary faculties to carry out the union, and to restore the Fathers of the Carmelites to their church of the Blessed Virgin Mary of Carmel and to the house of the novitiate, which had previously been assigned to the parish priest of Saint Stephen. This decree could not be carried out due to the opposition of the Caesarean Government, which, averse to a decrease in the number of parishes, seemed rather to prefer that the benefice of Saint Stephen be converted from secular to regular, itself.

[*Latin ed. p. 56*]

56 FROM THE DECREES OF THE HOLY CONGREGATION, and from the regulations, concerning the administration entrusted to the Fathers of Carmel with the care of souls. But the Fathers of Carmel, according to their abilities and on several occasions, [before the Holy Congregation for the Eastern Rites and Regular Canons], insisted that they might, at last, be freed from the burden of the parish. They presented various reasons, such as the impossibility of maintaining the enclosure due to the presence of a secular priest, the diminution of devotion towards the celebrated sanctuary of the Blessed Virgin of Carmel, patroness of Poland, which was venerated in the Carmelite church, the disturbance of the regular functions, especially on the more solemn feasts, by the secular priests who were temporarily in charge, and who also claimed ownership of the house of the novices, refusing to pay the established pension. Considering these and other matters, and since the union of the benefice of the curate of Saint Stephen could not be perfected according to the decree of March 17, 1857, due to serious objections raised by the Ordinariate of Cracow, the following response was issued on March 6, 1874: The Holy Congregation considers it necessary that, since the parish of Saint Stephen cannot be transferred to the church of Saint Anne, it be made secular, and that the Regular Canons be added to the Carmelites, according to the form of the Constitutions, namely, those beginning with "Firmandis." But even with regard to the execution of this decree, difficulties arose. On the one hand, it was observed that this conversion of the benefice of the curate would be injurious both to the secular clergy, and to the parish priest and secular administrators of the parish, who had borne great expenses for the restoration of the building of the novitiate and the parish house; moreover, this conversion was considered to be a violation of the passive patronage of the University of Cracow, whose professors had the right of precedence in the election of the parish priest, so that opposition could easily arise from the Imperial Government. On the other hand, the religious Carmelites denied this opposition from the Government; for it had given its consent for the parish of Saint Stephen to be entrusted to the religious for administration, provided that they sent a notification to anyone concerning compensation! from the title of use of the

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church and the novitiate up to now.

[*Latin ed. p. 57*]

From the Acts of the Most Holy Congregation, No. 57, it was stated that the parish of Saint Stephen, belonging to secular priests, was to be transferred, and the Provincial Father accepted this condition. Regarding the patronage rights of the University of Cracow, the religious Carmelites maintained that these rights had lapsed in favor of the Order, as it appeared from the approval of a certain agreement without any reservation on the part of the University, namely: that the revenues of Saint Stephen be distributed among the parishes of Saint Anne and Zielonki; and that the parish of Saint Stephen be transferred to the Fathers of the Carmelites, who would undertake to provide for the spiritual care of the souls. Finally, the religious maintained that this transfer was desired by the parishioners of Saint Stephen, since, in the year 1875, a meeting of delegates from the parish had been held at the order of the government for the purpose of defining this matter, and the majority of them had expressed their support for the transfer of the parish of Saint Stephen to the religious Carmelites. Given these circumstances, the Superiors of the Most Holy Congregation considered it best to resolve the matter definitively by referring the resolution to the general assembly of the Eminent Fathers, and on June 2, 1876, the following question was proposed for deliberation: Whether and how the administration of the parish of Saint Stephen should be transferred to the Fathers of the Carmelites in the suburb of Arena in the city of Cracow. To this question, the Eminent Fathers gave the following response: Affirmative, and the manner is: that the parish of Saint Stephen be administered by the Fathers of the Carmelites, as long as the church of Saint Stephen is being restored, and in the meantime, the assets of the parish remain under the jurisdiction of the Ordinary, with the understanding that the agreement is observed. This decision was confirmed by the Supreme Pontiff, as is evident from the following rescript. From an audience on June 16, 1876, His Holiness confirmed and approved the aforementioned resolution. However, since, in the year 1898, the parish of Saint Stephen was vacant, and the Ordinary of Cracow had convened a meeting of the secular clergy, the General Prior of the Discalced Carmelites again petitioned the Sacred Congregation, requesting that the decision previously issued be finally implemented. The Ordinary of Cracow, by order of the Sacred Congregation, was informed by the Apostolic Nuncio.

[*Latin ed. p. 58*]

38. Having been consulted by the Superiors of the Religious Orders in Vienna, he reported several and grave obstacles to the execution of the sentence already pronounced. Therefore, it was necessary to subject the matter to a new examination. A summary of the arguments AGAINST the

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translation or cession of the parish: The Bishop of Cracow, in his letter to the Sacred Congregation, argues against the translation or cession of the parish in the following manner: The parish of Saint Stephen has, for almost a hundred years, used the church of the Blessed Virgin, held by the Carmelites, as its parish church, and the right of the parish to this church is noted in the public registry. Indeed, the Carmelites attempted a few years ago to remove this right from the registry of the church, but they lost the case, as decreed by the civil court on November 23, 1897. And indeed, according to the laws of the empire, it is just: just as the King of Poland, Ladislaus, in the year 1396, could grant the aforementioned church to the Carmelites, so the Emperor of Austria, who ruled here in the year 1801, could take the church away from them; however, he did not do so, but decreed that it should be used for the parish of Saint Stephen, taking away from them their own parish church. 2° Given and not conceded: If the Sacred Congregation were to decree the removal of the parish of Saint Stephen from the aforementioned church, who could execute such a decree? Neither the Bishop, nor the parishioners through their legally elected representatives, could, according to the laws of the empire, demand that a new church and rectory be built for the parish, nor could they, relying on civil law, refuse to obey. Therefore, only the aforementioned Government could resolve the matter by building a new church and rectory for the parish of Saint Stephen. In conclusion, I believe that this matter, concerning property in Austria, pertains more appropriately to the civil court; while the true spiritual good of the parish (which numbers more than thirteen thousand souls) demands that so many Christian souls not be deprived of their spiritual goods for the uncertain benefit of four religious. Saint Stephen, the Carmelites.

[*Latin ed. p. 59*]

FROM S. C. EPISCOPAL AND REGULATORY DOCUMENTS, 59. Furthermore, the Bishop of Cracow, in another letter, states that in each parish, according to Austrian civil laws, there exists a parish committee, to which the duty is entrusted of safeguarding the rights and temporal goods of the parish. The parish committee of St. Stephen has the right, duly registered in the mortgage records, to use the church of the Visitation of the Blessed Virgin Mary in Cracow for functions without any restriction; the right of ownership of the church, however, belongs to the Fathers of the Carmelite Order. Hence, the Bishop concludes, the present question appears to pertain more to the aforementioned committee. The predecessor, Cardinal Dunajewski, on several occasions attempted to resolve this matter, but without success. According to the present Prelate, no other means of resolving the matter seems to exist, except by the construction of another church with an attached parish house for the parish of St. Stephen, a project from which the aforementioned parish committee does not shy away, provided that the

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Carmelite Fathers, for the right of use of the church which belongs to the parish of St. Stephen, pay a suitable sum, and the funds necessary for the construction of the church and the parish house are obtained. Finally, for the good of souls, the Bishop writes, I consider it necessary that the care of souls in the aforementioned parish be exercised by the secular clergy, especially since the office of pastor is now held by an excellent priest, legally appointed. Moreover, according to the Bishop, it must not be overlooked the admiration that would undoubtedly be aroused in the clergy of his diocese, if the administration of such a large parish were entrusted to the Order of the Carmelites, who, although they have the best of men, lack suitable members in these regions for the care of souls. IN FAVOR OF THE CARMELITE ORDER. ON THE OTHER HAND, the General Prior of the Carmelites denies that any obstacles exist on the part of the government to carry out the desired transfer or cession of the parish of St. Stephen to the Carmelite Fathers. He observes that there are three documents which prove the contrary. Furthermore, it is falsely claimed that the cession...

[*Latin ed. p. 60*]

60 FROM THE SUPREME GENERAL, TO THE BISHOPS AND REGULARS, concerning a harmful translation to the secular clergy of the diocese of Cracow, since when the matter of defending justice and the sentence of the Supreme Tribunal is being discussed, these things ought to be observed and upheld by all. However, the General Prior maintains that the Order of Carmelites is not able to provide suitable individuals for the administration of the sufficiently large parish of St. Stephen, which is entirely false, both because Carmelite religious are entrusted in the Austrian Empire with the governance of parishes of the greatest importance, as in the dioceses of Lviv and Pšemisyl, and others, and also because in the very parish of St. Stephen, those who bear the weight of daily duties and the fervor, whether in preaching, Confession, and catechesis, or in the assistance of the faithful who are dying, are two Carmelite religious, parish coadjutors and vicars. The General Prior does not deny that the current titular of the parish is a man worthy of all commendation, but he notes that when his nomination occurred, because, while a dispute was pending, the parish had always been governed by a vicar, a formal and repeated protest had to be issued by the Order before the Episcopal Curia, in order to protect its rights. Then, the General Prior, having stated that in the present matter the Order is not moved by ambition regarding the parish, but only desires to recover its church so that it may be restored to its former splendor, proceeds to enumerate the inconveniences resulting from such an anomalous situation. First of all, he laments the material damages that have already occurred, whether it be the Novitiate building, which is already beginning to crumble, or the church, which is in a deplorable state, and this is due to the negligence of the pastors. The Convent of Cracow would be the only suit-

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able place for having a Novitiate and a house of studies for religious in this province; but because the enclosure is difficult to observe due to the coexistence of the secular parish, and because a part of the convent destined for the Novitiate is unjustly held by the pastors of St. Stephen, the Novitiate and the studies of the religious in the province are nonexistent, to the great detriment of the Order. On the contrary, if the parish of St. Stephen were transferred to another church...

[*Latin ed. p. 61*]

E X S. C. EPISC. ET REGUL. 61: If it were to be the case that the church of Saint Mary is now administered by a simple chaplain, it would greatly benefit the faithful, both because this church is particularly suitable for the majority of parishioners who live in the countryside, and because it can better serve the needs of the parish, and also because, instead of one poorly managed church, there would be two churches in the greatest splendor and devotion, to the evident benefit of the faithful. This was also the wish of the late eminent Cardinal Dunajewski, who, however, was unable to complete this work, as he was already prevented by death. Therefore, the Prior General declares that it makes no difference whether the administration of the parish of Saint-Étienne is transferred to the P.P. Carmelites, or whether the parish is transferred to the church of Saint-Mark; in either case, the wishes of the Order are fulfilled. Indeed, in order that the matter may be arranged in the best possible way, the Order sends a representative to anyone with a legitimate claim arising from the aforementioned resolution of June 2, 1876, for the compensation due to it, whether for the unpaid dues by the parishes of Saint-Étienne, or for the serious damages caused to the church and the buildings of the Novitiate, provided that both the church and the part of the convent occupied by the parishioners are freely returned to the Order. With these two points clearly stated, the proposed solution was put forward in the following question. Question: Should and how should the appeal of the P.P. Carmelites be admitted in this case? RESOLUTION. On March 16, 1900, the Most Holy Congregation of Bishops and Regular Canons, after carefully weighing the arguments on both sides, responded to the proposed question: Affirmative.

[*Latin ed. p. 62*]

62 FROM THE HOLY CONGREGATION OF RITES, from Novara, concerning doubts regarding the established custom of blessing the baptismal font, and of assigning the celebration of Masses for the dead on Sundays and other feast days. The Most Reverend Edward Pulciano, Bishop of Novara, humbly presented the following to the Holy Congregation of Rites:

I. In the diocese of Novara, there exist several parish churches erected as dependent upon other parish churches. In the actual erection of these churches, the due honor was to be given to the mother churches, according

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to canon 3 concerning the building of churches, in such a way that the right of blessing the baptismal font on Holy Saturday and on the Vigil of Pentecost was reserved to the mother churches, while the rectors of the dependent churches were obligated to go to the mother churches and to assist at the blessing of the baptismal font, and to receive the baptismal water. However, during a pastoral visitation, the Bishop learned that in the dependent churches, on certain days, sacred functions are performed, and the water is blessed according to the rite established in the Missal, up to the addition of the sacred oils, and then Mass is sung. (This practice is so ingrained in the minds of the faithful that the pastors must fear serious consequences if they omit, and especially if they omit, the blessing of the water in the aforementioned manner.)

II. Furthermore, during the same pastoral visitation, the Bishop discovered another custom in several parishes, namely, the celebration of Masses for the dead is assigned to Sundays and other feast days, and these are performed with a tomb set up in the middle of the church, before the parish Mass, which is sung on Sunday or on the feast day in question. The people are very attached to this custom, especially because the faithful, and particularly the singers, cannot be present on weekdays. Moreover, this custom cannot be abolished without causing disturbances, and the Masses for the dead will be omitted, and therefore serious harm will result to the parishes. This custom is so ingrained that, although the Most Reverend Cardinal Morozzo, Archbishop of Novara, in the Synodal Constitutions of the year 1826, decreed its elimination in strong terms, and although the same Bishop [Orator] has also tried to achieve this, it still persists.

Therefore, the question is asked: Can both of these established customs be permitted, or at least tolerated? And the Sacred Congregation, after considering the aforementioned report, and also upon the earnest vote of the Liturgical Commission, decided to respond as follows:

[*Latin ed. p. 63*]

FROM SACRED RITUALS 65: Regarding the first custom, the decree *Utinen*, no. 4, dated January 13, 1899, for sections I and II (1), should be observed. Regarding the second, it is permissible to celebrate the Office for the Dead, unless it concerns Sundays or feasts of greater solemnity; however, regarding the tomb itself, the decree of Monreale, no. 3, dated March 20, 1869, for section VIII (2), applies. Hence, this abuse must be gradually and prudently eliminated. And so it was written on February 16, 1900. C. CARD. ALOISI - MASELLA, Pro-Datary of the Holy Roman Church, Pro-Prefect. L. ass. DIOMEDES PANICI, 5. R. C., Secretary. TARRACONEN. Concerning the Beatification and Canonization of the Venerable Servant of God, Sister Philumena, a nun of the Order of the Minim Friars of Saint Francis of Paula, of Monreale. In the presence of the Most Reverend Father Augustine Donadío, of the Order of the Minim Friars of

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Saint Francis of Paula, and the legitimately constituted Postulator for the Cause of Beatification and Canonization of the Venerable Servant of God, Sister Philumena, of Saint Coloma, the Eminent and Most Reverend Cardinal Raphael Pierotti, in place of and in the stead of the Eminent and Most Reverend Lord Cardinal Miecisław Ledóchowski, Promoter of the same Cause, in the Royal Assemblies of the Congregation of Sacred Rites, held on the date indicated at the Vatican, according to the special dispositions of Our Most Holy Lord Pope Leo XIII, published in the years 1878 and 1895, proposed the following question for discussion: Does the validity of the processes, both Apostolic and Ordinary, depend on whether the witnesses have been duly and properly examined, and whether the testimonies have been legitimately obtained, in the case and for the purpose in question? Furthermore, the Sacred Congregation of Rites, having heard also the voice and writings of the Reverend Father D. John Baptist Lugari, Promoter of the Holy Faith, having carefully considered all matters, decided to respond: Affirmative, that is, it is valid, provided the witnesses are not repeated in the Apostolic Process. Dated June 26, 1900. Subsequently, the following questions were presented to Our Most Holy Lord Pope Leo XIII by the undersigned Cardinal of Sacred Rites (1): Question I. Whether the baptismal water, on Holy Saturday and the Vigil of Pentecost, should be blessed only in parochial churches, or also in filial churches that legitimately possess a font. And, to the extent that the answer is affirmative for the second part: Question II. Whether it is sufficient to bless the water up to the point of the infusion of the holy oils in the parochial church; and then, having transported the water to other churches, to perform the infusion of the holy oils in each individual church; or whether the entire blessing must be performed in each individual church? "Response to I and II. Negative for the first part; affirmative for the second, according to the rubrics and decrees. (2) Question VIII. Whether, after a solemn Mass, an absolution can be given at the tomb, according to the disposition of our founder, Archbishop Jerome Venero, on the feast of Saint Jerome, the Doctor, if it occurs on a Sunday? "Response to VIII. Negative, and the decrees should be observed."

[*Latin ed. p. 64*]

64 From a report to the Congregation for the Discipline of the Sacraments, the Holy See approved the resolution of that same Sacred Congregation. On July 9th of the same year. Cardinal Aloisi-Masella, Pro-Datary of the Holy Roman Church, Pro-Prefect. L. S. Diomedes Panici, Secretary of the Holy Roman Church. FROM THE HOLY APOSTOLIC PENITENTIARY FOR THE JUBILEE YEAR: Declarations of the Holy Apostolic Penitentiary. On May 10, 1900. I. Tizio, employed in an ecclesiastical office, having availed himself of the Indulgence of the Missions, learns that in his office, the days of visit are reduced to eight. Can he, according to § 17 of the Monita, make only one visit to the four Basilicas and thus gain the

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Jubilee? II. Can he who has obtained from the Confessor a first commutation, obtain from the same a second, third, etc., commutation and again gain the Jubilee? III. Can he who has obtained from the Confessor a first commutation, repeat the works prescribed in this commutation and again profit from the Jubilee? IV. Can the plenary indulgence of the Jubilee be applied to the souls in Purgatory? The Holy Apostolic Penitentiary, having considered the above, and with the approval of His Most Holy Lordship, Pope Leo XIII, Divine Providence, answers: To I: Affirmative. To II: Negative. To III: Affirmative. To IV: His Holiness has deigned to declare that those who have twice or more times gained the Jubilee of the Holy Year, can, on the second occasion and thereafter, if it pleases them, apply the plenary indulgence as a suffrage for the deceased. Given in Rome, in the Holy Apostolic Penitentiary, on May 10, 1900. A. Carcani, E. P. Regens.

[*Latin ed. p. 65*]

65 Letters from His Holiness Pope Leo XIII to the Patriarchs, Archbishops, and Bishops of the Greek Melkite Rite, so that they may be strengthened in the spirit of concord, given the minor dissensions that have arisen among them. It is known and has been demonstrated to all, Venerable Fathers, that We, from the very beginning of Our Pontificate, have earnestly turned Our gaze towards the Christian nations of the East. Furthermore, through certain acts, especially the Constitution *Orientalium*, We have declared and decreed many things opportune for binding them to the Chair of Peter, and also for fostering reconciliation among the dissenting. Moreover, We have readily seized opportunities to demonstrate active benevolence towards the Eastern Catholics, and We have found nothing more ancient, nothing more sacred, than to excite and foster in them, with hearts united with the Apostolic See, such zeal and fruitfulness of faith, that they may strive, with renewed examples, for greater excellence and praise. Among all the Eastern Churches, We have and continue to regard the Antiochian nation and Patriarchate of the Greek Melkite Rite with particular benevolence. Indeed, as We now briefly recall, Venerable Fathers, We established, from the year 1882, a Seminary in the city of Jerusalem for the Greek Melkite Rite, and appointed Algerian Missionaries to it. Furthermore, We take care that several students from that Greek Melkite nation are supported by Our resources in Rome, at the Athanasian College, so that they may draw from the very source, the Catholic truth, and become accustomed to venerating and adhering to the center of unity, which is divinely established in the Apostolic See. Finally, as is evident from the same Constitution *Orientalium*, in the year 1894, We granted jurisdiction to the Greek Melkite Patriarchs over those faithful of the same rite who are within the boundaries of the Turkish Empire. We gladly testify that this benevolence towards the Greek Melkite nation has been appropriately met by the zealous work of your Order; both for the

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diligence with which, called to participate in Our concern, you strive to fulfill your ministry, and for the industry with which you provide for the well-being of the flock entrusted to you. Although We mention all these things not without praise for your Order, We cannot conceal the sadness with which We are affected by the minor dissensions that have recently arisen among you.

[*Latin ed. p. 66*]

66 We write these letters. With the favor and assistance of Divine Grace, we have been able to resolve such disagreements; for since many of you, who visited Rome last month, have commendably adhered to our instructions, peace and harmony have been immediately restored. Now, in order to strengthen this agreement of minds, we have deemed it most fitting to declare three things in these present letters. I. Regarding patriarchal rights, privileges, duties, and prerogatives, we intend to diminish or detract from nothing; nevertheless, we earnestly implore our Venerable Brother, the Patriarch of Antioch, of the Greek-Melkite Rite, to treat the bishops of that same nation, whom the Holy Spirit has placed to govern the Church of God, with all due reverence and fraternal charity, according to the precept of Blessed Peter, the Prince of the Apostles: "Neither do ye rule as lords over God's heritage; but be ye as ministers of the Gospel, with your souls" (1 Peter 5:3), to which the excellent words of Bernard are consonant: "Let charity act more than power." II. Furthermore, we warn all the bishops of that same nation to show honor and obedience to the aforementioned Patriarch as a legitimate Primate, and to give due obedience; and if any controversy should arise among them, they must first submit it to the judgment of the Patriarch; but if the matter cannot be settled, it must reverently be referred to the Apostolic See. III. To prevent future disputes regarding rights, the celebration of a National Synod will be most beneficial. Therefore, as we have previously recommended to you, so now, through this letter, we command that such a Synod be convened as soon as possible, in which matters concerning the rights of the Patriarch and the bishops, the proper administration of the faithful, the discipline of the clergy, the institutions of monks or other pious orders, the needs of missions, the decorum of divine worship, the sacred liturgy, and related matters, are diligently and carefully considered, in order to promote the greater glory of God and to increase the splendor of the Greek-Melkite Church. As the celebration of a National Synod has been of great benefit to other Eastern Churches in resolving matters and restoring ecclesiastical discipline, so we justly and rightly promise that your Church will produce excellent results from the study and promulgation of laws. Now, before we conclude these letters, we

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earnestly exhort and implore you, with the deepest affection of our heart,

[*Latin ed. p. 67*]

LETTERS 67: As we are daily more closely bound by the bond of charity, we are concerned that you may preserve, with all humility and gentleness, the unity of spirit in the bond of peace. For none of you is unaware of how much the harmony of minds, wills, and opinions contributes to the good of the entire Church and to fostering reconciliation among the dissenting. Therefore, we are certain, Venerable Brothers, that you will gladly obey these paternal admonitions, desires, and requests, and that you will strive to eradicate the seeds of discord, and thus fulfill our joy, and that you will fulfill all the most important parts of your office for the perfection of the saints and the edification of the Body of Christ. We are persuaded that you have deliberated on all things that may pertain to the greater benefit of the Greek-Melkite Church. In the meantime, with humility of heart, we pray and beseech God that He may graciously bestow upon you an abundance of heavenly gifts. And, under the auspices of divine assistance, and as a witness of the ardent love with which we embrace you in the Lord, we impart the Apostolic Blessing to you, Venerable Brothers, and to all Greek-Melkite clergy and laity. Given at Rome, near St. Peter, on the 22nd day of July, in the year 1900, the 23rd year of Our Pontificate. LEO XIII.

*) ^ 4 3 FROM THE HOLY CONGREGATION OF THE COUNCIL OF VERSAILLES, OR PARIS. REGARDING THE NULLITY OF MARRIAGE. May 19, 1900. Session 24, Chapter 5, concerning the validity of marriage.

COMPENDIUM OF THE CASE: Joanna, born of noble parents, entered into a valid marriage with Victor on July 3, 1883, having barely reached the age of twenty years, in the town commonly called Boulogne-sur-Mer, in the diocese of Versailles.

[*Latin ed. p. 68*]

68 FROM THE DECREES OF THE COUNCIL: These marriages did not turn out happily: it appears that Joanna did not enter into marriage with the man of her own free will, but out of fear alone, compelled by threats and the coercion of her mother, who, desiring to secure the wealth of Victor, wanted to bring about such a marriage. How sorrowful her conjugal life was, the woman recounts in her lamentable little book: "The conjugal life with Monsieur Victor lasted two years and three months in the eyes of the world, but, in reality, for a reason which I find repugnant to write, a de facto separation existed from the sixth month after my marriage... An intolerable life forced me to request a separation of body." Concerning this matter, as domestic disputes increased, Joanna bid farewell to her husband and obtained a separation of body and goods from the civil court; until the husband, in order to marry another woman, obtained a divorce sentence from the same civil court. In the meantime, the unfortunate woman, also

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desiring to enter into new marriages, approached the Court of Versailles, requesting that this marriage be declared null and void due to lack of consent. The Ordinary of Versailles, having received this petition, instituted a process through a delegated judge: the sworn testimonies of the plaintiff, her mother, and several other witnesses were heard, among which is the testimony of the Reverend Débette, who was the plaintiff's confessor, and, if what is recounted is true, he used his moral authority [to influence the girl's mind; the man was also formally summoned, but remained in contempt of court. Therefore, the delegated judges, having considered everything, on January 19, 1897, rendered this judgment: "Considering that, although the witnesses are largely connected by kinship or friendship with the plaintiff and appear to be moved by her misfortune, nevertheless, there is such information about their honesty and prudence that their testimony should be given certain credence; Considering that from the acts of the process it is established that Joanna gave her consent to her marriage with Victor out of reverential fear; Considering that, therefore, it must be judged whether the fear was such..."

[*Latin ed. p. 69*]

VERSAILLES. OR PARIS. 69. "It has been determined that the aforementioned consent was not given freely enough to validly contract marriage;" Considering that, due to the strict education of the actress and her disposition, a serious fear appears to have been present; Considering that the actress received no assistance, either from her father or from friends or relatives, since those who were subject to the authority of the mother dared not, or would not, oppose her; Considering that the mother herself, either when she and the fiancé went before the magistrate to conclude the civil marriage, or in a secret and private conversation with Mr. De Roy, confessed that she had forced her daughter into this marriage and that she was the cause of her unhappiness; Considering that, given the circumstances and the personalities involved in the family of the woman in Mineo, the fears instilled in the aforementioned actress by her mother were of such a nature that they constituted a serious cause of fear; Considering, therefore, that the conditions required by the Theologians for declaring a marriage null are found in this case; We judge and declare that the marriage contracted between Victor and Joanna is null and void." From this sentence, the defender of the marriage appealed to the Court of Paris, which, after a longer consideration of the matter, and after new investigations, on August 20, 1898, confirmed the sentence of the judge of Versailles. When the defender of the marriage appealed to the Sacred Congregation of the Council, the judge of Paris, transmitting the proceedings, also stated the following: "Indeed, the case appeared to be very difficult; for although the facts are fully proven, they are neither so numerous nor so grave. Nevertheless, taken together, they seemed to provide sufficient evidence of duress

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and fear, to several of the consulted advisors and assessors, and to myself." It was considered that the actress, besides being of perfect religion and of all honesty, was also of such a disposition, of such timid and submissive obedience to her mother, that she could scarcely, or perhaps not at all, resist even a moderate moral pressure exerted by her; and conversely, the mother...

[*Latin ed. p. 70*]

70. "The decrees of the Council of Trent possess such authority and power, and have been so strict with regard to its children, that it has not admitted, nor does it admit, any resistance, nor even any objections." This character, evident in both parties to the judges and assessors, has been deemed to add considerable weight to the facts alleged by the plaintiff and her witnesses, and has inclined the judgment of the Tribunal towards a declaration of nullity. "Now, I will add a few things regarding the facts of the case. The man repeatedly summoned not only failed to appear, but sent insulting letters to the judge." As for the priest Débette, who played a significant role in the matter and performed the marriage ceremony, he exhibited such hesitation and forgetfulness in the questions posed to him that it raises suspicions about his good faith.

Synoptic Discussion. OPINION OF THE CANONIST. With regard to the legal proceedings, the following seem worthy of note to me. First and foremost, the testimony of the man is lacking, as is that of his seventh witness. This is, indeed, a matter of the utmost importance. However, this is not due to the fault of the judges, but to the utterly unreasonable and persistent refusal of the man: who, despite the kind requests of the judges in Versailles, refused to provide, with boldness and audacity, answers worthy of respect before the Episcopal Court of Sherbrooke, in the province of Canada, where he resided at the time. Therefore, in this process, only the testimony of the plaintiff and her seventh witness is available, along with several witnesses summoned either by the judge or by the defender of the marriage. These witnesses have made every effort to bring before the court, especially, those witnesses who were in some way connected to the man's family, or who were known to be informed about this matter. Thus, it seems to me that the foolish man's refusals have been sufficiently compensated for, whose testimony, even if it had been available to this case, would have been considered.

[*Latin ed. p. 71*]

VERSAILLES, OR PARIS, 71. With vehement indignation from his wife, it is justly to be suspected. In the examination of these witnesses (diligently conducted by the commission of Judges), both in the first and second instances, the prescribed norms were observed with utmost care, according to the Benedictine Constitution, by the grace of God, and the Instruction

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of the Sacred Congregation of the Council. This one thing is noted in the records: whether, in the examination of Monsieur Radiguet, he was sworn to speak the truth and to maintain secrecy. Furthermore, I firmly maintain that the legal requirements were scrupulously observed, even with regard to this witness; however, the amanuensis, perhaps through negligence, did not record this in the proceedings. I greatly desire that the Judges, at least among the extrajudicial records, would include the reasons and the declaratory sentence of divorce issued by the civil tribunal of Boulogne-sur-mer concerning the marriage. No one can deny that this document would add greater weight and clarity to this matter. Now, a few words about the trustworthiness and veracity of the witnesses. Indeed, both seem entirely worthy of credit. For the Judge of the first instance, before pronouncing the sentence, states: "Considering that if the witnesses are closely connected by kinship or friendship with the Plaintiff, and appear to be moved by her misfortune, nevertheless, information about their honesty and prudence is such that their testimony should be given certain credence." However, the remarkable agreement, not only in their sentences, but sometimes even in their words, of these witnesses, I believe is due not to the vice of collusion (which is not at all apparent from the records), but to the very evidence of the facts themselves. They do not seem to deserve the same level of trust as the Reverend Monsieur Alphonsus Débette, closely bound to the family of the husband by the bonds of friendship, Monsieur Alexander de Guillebon, and Monsieur Paulus d'Anville, both relatives of the husband. For it has been discovered that these individuals, in this case, were guided by the interests of the parties, as is evident from their reluctance to appear, and from the hesitation with which they answered the questions put to them. Let us hear from the mouths of the Judges, what they pre-

[*Latin ed. p. 72*]

72. From the proceedings of the Council concerning the veracity of the testimony of Mr. Débette, it must be considered. The Most Reverend Vicar General of the Diocese of Arras testifies as follows: "Regarding Mr. Débette, whom I have seen twice, and whom I have urged to speak with complete sincerity, I am less reassured. Based on his demeanor, I believe that he is not revealing everything he thinks." The Most Reverend Monsignor P. Monlezun, who was acting as judge, held a similar opinion, having questioned the aforementioned Débette again in Paris. "As for the priest, Mr. Débette, who played a significant role in this matter; and who performed the marriage ceremony, despite being under pressure from the questions, he exhibited such hesitation or forgetfulness that it aroused suspicion about his good faith in our minds." And concerning the process and the veracity of the witnesses, that is sufficient. Now, it remains to discuss the merits of the case in more detail. This concerns a matter of the gravest importance and of difficult resolution; for it is necessary to judge the value of the in-

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ternal act, from which the reason and the essence of the sacrament depend in the individual. Therefore, in this matter of such great weight, we must not proceed rashly or lightly, but rather, the safest principles must first be established, derived from the sources of Canon Law and the Doctors, which both pertain to our case and contain the reason, or the criterion, for a just resolution of the question. It is established that, according to natural, civil, and ecclesiastical law, mutual and free consent of the contracting parties is absolutely required for the validity of marriage. However, freedom of consent is most often taken away by coercion and fear. But not every coercion and fear invalidates the marriage, but only that fear which Canon Law, in *De Spon. et Matr., C. Consultationi*, says falls upon a constant man; that is, a grave and unjust fear, imposed by a free cause, to extort consent for the marriage. This includes reverential fear; indeed, this fear, if I am not mistaken, adds something to the fear that falls upon a constant man, if it happens that a harsh...

[*Latin ed. p. 73*]

VERSAILLES. OR PARIS. A cruel and violent father, to a daughter of tender years and delicate constitution, threatens her seriously, that unless she consents, he will inflict upon her the very same evils which, according to the judgment of Doctors, are capable of inspiring fear in a steadfast man. Such are: expulsion from the paternal home, disinheritance, confinement to a monastery, and perpetual prohibition from marriage. Therefore, if it is clearly established that the girl enters into marriage against her will, then, with the common consent of Jurists and Theologians, this marriage is declared null and void. Since this matter is closely related to the case discussed in Cologne in 1897 before the Sacred Congregation of Councils, where I have summarized the principles of law and the opinions of Doctors regarding this matter; therefore, lest I repeat what has already been said, as Tullius says, following an ancient proverb, I refer the reader to that E. E. W. matter. Furthermore, from these established principles, when applied to the present case, it is clearly demonstrated that the marriage in question is null and void, due to coercion and fear, a judgment already consistently affirmed by the Courts of Versailles and Paris. I believe this judgment to be consonant with truth, and therefore worthy of confirmation by apostolic authority. In order that the reason and method for resolving this question may be more easily and clearly understood, I consider it worthwhile to gather the elements by which the nature and value of the consent given by Joanna can be ascertained with certainty. In my judgment, these are the character and behavior of both parties, as well as the character and behavior of the mother, the actress. The character of the man. — The husband's notorious licentiousness was well known; for his mind was steeped in the mire of vile lust, and he was constantly absorbed in games and drunkenness, and although born of a noble family, he had nevertheless, through long

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association with the uncultured, become a rustic and boorish man. Even Mr. R. D. Alph. Débette, a friend and supporter of this man, confesses that "he was of a headstrong character, a little brutal," and regarding his morals: "the housekeeper seemed very intimate with Mr. Victor before the marriage; it was said that he got along well with her." Lord...

[*Latin ed. p. 74*]

74. EX S. C. CONCILII Chambon de eodem hoc testatur: "Dominus Victor erat meus socius in regimine. Ipse erat sine disciplina, deditus ebrietati, delectabundus solum in locis inferioribus et inter scelosos. Omnibus notus erat talis." Et ut de aliis taceam, Domina Arnoult confitetur, Dominum Victorem fuisse "prodigus, lascivus, lusit cum operariis, bibax." De indole uxoris. – Ioanna praebuit omnino diversam indolem. Sic eam graphicè describit Rmus Dominus P. Monlezun, Iudex in secunda instantia: "Consideratum est, quod Actrix, praeterquam quod est perfecta religionis et omnimodae honestatis, etiam fuisse et esse indolis, eius erga Matrem timidae et demissae subiectionis, ut vix et ne vix quidem mediocri vi morali ab illa incussae resistere potuerit." Praestat, in hac re, unum vel alterum etiam audire testimonium. Et Dominus Clemens de Royer, qui familiam mulieris ab infantia cognoverat, testatur: "Mlle Jeanne erat puella amabilis sub omnibus aspectibus, temperamenti nervosi, valde impressionabilis, natura sensitiva facile accessibilis ad emotionem et timorem." Dominus Chambon sic deponit: "Puella quam multum vidi in Boulogne... erat valde dulcis, valde timida, etiam sine voluntate; voluntas parentum eius erat." Tandem Dominus Radiguet deponit: "Futura habet ingenium molle, defensum, et paratum ad accipiens impressiones quas prima persona quae veniet ei tribuerit." De indole Matris Actricis. – Idem Rmus Dominus P. Monlezun, in considerandis prolationi sententiae praemissis, indolem matris sponsae his verbis expressit: "Attenta indole indomita, imperiosa et violenta matris, ut facile constet de visu etiam his diebus." Et in epistola ad Emum Card. S. Congr. Concilii Praefectum missa, de eadem matre ait: "Ea auctoritate et imperio praedita erat, et ita austera se habuit et habet erga filias, ut nec resistentiam, nec etiam obiectiones admiserit, aut admittat." Id.

[*Latin ed. p. 75*]

VERSAILLES, OR PARIS. 75: What can be deduced from the following testimony of Monsieur de Royer: "Madame de M. is a woman of a very authoritarian character, who did not tolerate any objection or discussion from her children regarding her orders. The slightest inclination to resist was immediately suppressed. Her two daughters, raised according to these habits of exaggerated severity, retained a certain timidity and fear, which is easily observed. On a nature as gentle as that of Madame Jeanne, maternal brutality produced a true terror."

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But to what purpose, one might ask, is this review of the character of these individuals? It is of the greatest importance. For, as I noted above, the correctness and truth of the judgment regarding the consent given by Jeanne to the marriage, depend to the greatest extent on the character and disposition of these individuals. Indeed, the often-quoted Monsieur P. Monlezun stated: "The character of both, that is, of the bride and her mother, which is made manifest to the judges and assessors, has been considered to add immense weight to the facts alleged by the Plaintiff and her witnesses, and has inclined the Tribunal to pronounce a judgment of nullity of the marriage. Let us now see what facts the Plaintiff has alleged, with which she proves that she was compelled to consent to the marriage with Monsieur Victor. These are: The inexorable and constant aversion that Jeanne experienced towards the man whom her mother had arranged for her to marry. "I found Monsieur Victor to be coarse, very brutal," the Plaintiff confesses, "and I felt repugnance for him." And she confirms this to the judges of Paris, saying: "I have always rejected the proposals to marry Mr. Victor. At first sight, he seemed to me to be brutal, ill-bred, and coarse. This antipathy was manifested from the beginning, during a meeting at a friend's house, where he made a very bad impression on all of us. I made known to my mother my resolution not to marry him."

[*Latin ed. p. 76*]

76. From the testimony of the Most Holy Council, from the very first time she spoke to me about the project of marriage, I manifested a movement of revolt as strongly as I could, given my mother's character... I renewed my refusal each time the question of marriage arose." These are the various attempts made by Joanna to avoid a marriage so hateful to her. — Before the judge in Versailles, Joanna testified: "I first spoke of my repugnance to my mother, saying that this marriage displeased me, then to my sister and my brother-in-law who lived with us. I also spoke to an abbot who was my confessor. I went to find him in the sacristy, and I explained to him the repugnances that this marriage inspired in me. Since he knew Mr. Victor, I asked him for advice, saying to him: 'He is extremely brutal, coarse: help me, advise me, you who know him, and me, and my situation.' He replied to me: 'It will work out, marry him.'" She repeated the same to the judges of the second instance: "I asked my sister and my brother-in-law to intervene with my mother... After the scenes with my mother, my brother-in-law and my sister would console me, promising to intervene, to influence my mother. These conversations, these confidences, were repeated often, always in the same direction... I have already said that I tried several times to involve especially my brother-in-law. It seemed to me that his status as an ally, a newcomer to our family, would give him, until then, more authority with my mother, than we had, who were accustomed to obeying my mother. Two days before the marriage, I asked my mother to

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postpone the marriage, to gain time; to have a chance to have it broken off; and perhaps to discourage Mr. Victor, by giving him the opportunity of a break." I could add more testimonies of the same witness here, but it is not necessary, since, from what has been presented so far, it is clearly evident that before the...

[*Latin ed. p. 77*]

VERSAILLES, OR PARIS, 77. Joan never loved her husband; rather, she was long and intensely determined that the marriage should be dissolved, and that such an undesirable marriage should be prevented. Objection. — Nevertheless, these two testimonies seem to weaken the force of the aforementioned evidence: namely, that the Actress encouraged her future husband to promise her, at the beginning of the marriage, that he would abandon the company of wicked men: "I had asked him to promise me that when he was married, he would leave them." Then, that she confessed to having been more attracted to a certain young man (who pleased me more), with whom she desired to marry, contrary to this. Response. — Although these things seem, on the surface, to indicate that Joan ultimately consented to the marriage with Victor, nevertheless, upon mature consideration of both the declarations that she herself made, when questioned by the Judges, and the fact that she affirmed to Victor that she did not want to marry, this consent completely vanishes. Therefore, let us examine the Actress's declarations. In response to the first, she said: "I did not accept the marriage, but I was only seeking by all means to combat his ideas; I struggled, I sought to change the husband who was being imposed upon me. I did not want him to be able to say to me later: Why did you not make these observations before the marriage?" In response to the second, she said: "I declare that I retract the word 'more' because it would seem to indicate, by comparison, that Monsieur Victor pleased me somewhat, whereas he has never pleased me." The mother, in order to extort her daughter's consent, used not only the most insistent and continuous prayers, but also harsh words and truly serious threats. — As Joan herself said, "As soon as I denied my consent, 'my mother said to me - You cannot reproach him for anything; you do not know him -' and, after outbursts of anger, she informed me that I would have to receive him that evening. She added that she wanted me to be polite and amiable. My mother repeated to me... that I was a child, that I knew nothing of life, that all of this was childishness.'" Regarding the threats made against her to obtain her consent to the marriage, ex-

[*Latin ed. p. 78*]

78. From the records of the Council, this is what the young woman, before the Judge of Versailles, confessed: "My mother told me that she would abandon me, that she would send me to a convent, that she would refuse

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her consent to any other marriage, and that she would disinherit me – for she possesses the fortune – and finally, if I did not yield, she would send me back to my father, who at that time wished to go to Africa, and that she would not give me a single sou." Speaking again of these threats before the Judge of Paris, she added: "She affirmed, each time, that she would never give her consent again. She said this quite angrily, shouting so loudly that she could be heard by the neighbors; she would overturn furniture, and slam doors. However, she never struck me, nor threatened me with physical blows. These scenes troubled me all the more because I knew that she suffered from a heart condition, and that every impression could worsen her condition. I would then weep and remain silent because of this. My mother would then shun me: we would no longer speak to each other until the next visit of Mr. Victor. The scenes were continuous. The threats of which I spoke above were repeated each time that the subject of marriage was mentioned, either between my mother and myself, or in the presence of my brother-in-law and my sister, who would say: 'Let her be; you have time to marry her.' My mother would reply: 'Why not take this one and want another?' These threats affected the spirit of Joanna so deeply that she shed tears and moans day and night, and was plunged into despair. 'I was constantly sad and dejected; this dejection was particularly noticed by Mr. Angliviel de la Beaumelle, and other people, on the beach at Boulogne-sur-Mer. I had fits of despair every evening, provoked by this pressure that weighed upon me, by this prospect of escaping one hell only to enter another. I spent part of my nights weeping, and more than once, if I had had at hand anything with which to take my own life, I would have done so.'" Joanna, as we have seen above, with the marriage now imminent.

[*Latin ed. p. 79*]

VERSAILLES, OR PARIS. On the 79th day, she most urgently implored her mother to postpone the marriage. To which the latter replied: "That everything was ready, that the preparations had been made, that it was not proper, that there were guests from abroad, that they could not be uninvited, that it would be a source of ridicule before the City. She became more agitated than usual, shouting to be heard everywhere, slamming doors, pushing everything, telling me that I had no filial piety towards her. She wept, sobbed, saying that it was out of prejudice, that I had nothing particular against Monsieur Victor, that my refusal was intended to upset her, that she had been very successful in arranging the marriage of my sister; that I did not understand life, and that she did not see the reasons for my resistance, etc." From these testimonies, as well as from many others that I could bring forth, it is inferred as a corollary that which is the crux of our entire discussion, namely, that Joanna consented to the marriage under unavoidable coercion and fear. - Indeed, these words clearly demonstrate that, compelled by her mother through threats and fear, Joanna entered

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into the marriage: "I could not do otherwise. My mother made threats to me; my life would have become intolerable. Therefore, I yielded to the insistence of my mother." By insisting on this testimony and on the others cited above, it is clearly and evidently demonstrated that, in the specific case in question, all the conditions are present which the laws and Doctors require in order to annul a marriage on the grounds of coercion and fear. Indeed, in this case, the essential condition is lacking, namely, the efficient cause of the marriage, which, according to the Council of Florentinum, is the mutual consent expressed by the will. For, as the testimonies cited show, Joanna completely lacked this will to marry: and this is evident: 1. from her constant aversion to the man, whom she not only never loved, but hated, from which she received his visits with reluctance, coldly, and indeed, reluctantly; 2. from her constant resistance (with prayers and tears) to her Mother, and also...

[*Latin ed. p. 80*]

80. From the Sacred Council, with the assistance of the sister and relative, and the guidance of the confessor, and in order to weaken the obstinate cruelty of the Mother, who, forgetful of maternal piety, had repeatedly threatened and restrained the daughter's freedom, and finally compelled her to give her consent to what she so greatly desired. It is unnecessary for me to remind the reader of the gravity of these threats, for they were so extraordinary and prolonged that they could have disheartened not only a timid girl, but even the bravest of men. Nor should we pass over this: considering the disposition of the daughter, her timidity, and her youth, and considering the unyielding, imperious, and violent disposition of the Mother, and the tenacity of the council, those threats should be considered not merely serious, but most serious. Furthermore, it must be added that Joanna not only feared those very grave evils that her mother constantly threatened her with, but she also feared death, or at least some misfortune, which might have befallen her, already suffering from a weakness of heart, if she had refused to give her consent to her mother. Even this single evil, foreseen by Joanna herself, and prepared to avoid at all costs, would have been sufficient to justify her in relinquishing her freedom. Therefore, since it has been proven by the testimony of the daughter that serious threats were made by the mother to the daughter in order to extort her consent to the marriage, and that this was done under the unavoidable pressure of fear, it is just and proper, according to canonical sanctions, to conclude that Joanna entered into the marriage invalidly.

Objection. – Against this conclusion, one difficulty may be raised, which, although of no weight, must nevertheless be explained, so that any suspicion of the truth of this conclusion may be dispelled. The Mother of Joanna, certainly struck by the goad of conscience, upon entering the municipal hall for the first time, said to her daughter: "My child, there is still time; tell me

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if you consent, if you wish." By this manner of proceeding, and by abandoning the vexations, she restored her daughter to her former freedom: hence, it was entirely in her power to either withdraw or proceed.

[*Latin ed. p. 81*]

PARIS. Concerning the marriage with Victor. Since Joanna gave no reply to these matters, and completed the marriage according to custom, it must be concluded that she did so with full and free will, and therefore the marriage is valid.

Response: Let us now hear how Joanna extricates herself from this difficulty. "If I did not respond," she says, "it was because it was too late, because the scandal of my refusal at that moment, dressed as a bride, before the guests, would have been far greater than the one that had caused my mother to retreat two days earlier, when she claimed that it was impossible to delay... I did not retreat because I was unable to do so. I was overwhelmed, I allowed myself to be led, I underwent the marriage, I did not consent to it of my own free will, I would never have done so, my will was not at all to accept the marriage. This is all the more true because I did not accept it even when it was being performed." Everyone can see that with this response from the actress, the conclusion is strengthened even more. Indeed, considering all the circumstances of the matter, especially Joanna's meticulous nature, the difficulty of deliberation, the urgency of the time, and the violent disturbance of her mind, the possibility of her refusing is not even conceivable. Therefore, remaining in the same state of fear and coercion, she performed the marriage.

Furthermore, this coerced consent is not a light argument, unless I am mistaken, but rather that unusual manner in which Joanna behaved while performing the marriage ceremony before the civil and ecclesiastical officials. "At the town hall, and at the church," she says, "I gave an affirmative nod of the head." Moreover, although, according to the law and the well-established opinion of the Doctors, marital consent can be expressed with gestures and signs, nevertheless, as the Council of Florence teaches, "consent must be regularly expressed through words in the present tense," and in Book IV, chapter XXV, Concerning Betrothal and Marriage, it is stated that "marriage is truly contracted by the legitimate consent of the man and the woman; but the words of consent are necessary with regard to the Church."

[*Latin ed. p. 82*]

82. From the decrees of the Council, I draw the following conclusion; for the deaf and mute can indeed contract marriage, through mutual consent without words. Therefore, the Pope decrees in this manner, that the deaf and mute can certainly express consent without words, but not in the way that those are who are endowed with speech and hearing. Therefore,

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these are not considered spouses in the eyes of the Church, unless it is certainly established that they have uttered words expressing consent, or at least that the signs they have given have such an evident and certain connection with internal consent, that any prudent doubt is completely removed. Therefore, since Joanna was neither deaf nor mute, she ought indeed to have expressed her internal consent, not by a mere inclination of the head, but by the most explicit words, as is customary. Since she did not do so, and it cannot be proven from any other source that she consented, perhaps influenced by modesty or shame; it must be concluded that in this case, consent was not adequate or sufficiently expressed by a simple inclination of the head, and therefore, that external act did not truly promise the sincere consent of Joanna, after all things have been diligently considered. Therefore, it seems entirely necessary to hold that Joanna was compelled to act in this way, by a certain moral necessity, and by the desire to redeem herself from the unjust vexation of her mother. And this is clearly confirmed by the fact that she signed the marriage contract with great reluctance. "I signed, but unwillingly." Furthermore, a contract entered into and affirmed against a reluctant will, no one (as far as I know) dares to declare, nor even to consider imperfectly voluntary, and invalid in the forum of conscience.

Objection: — But here arises a difficulty that cannot be dismissed. From the procedural acts, it is clear that the spouses lived together for six months and fulfilled the duties of marriage. Therefore, Joanna must have considered her marriage to be valid and firm.

Response: — But this argument holds no weight whatsoever. Even if, for a certain period of time, an individual has lived in the accustomed manner with her husband, and has engaged in sexual intercourse, it cannot be rightly inferred that the marriage is already invalid.

[*Latin ed. p. 83*]

VERSAILLES. OR PARIS. 83. We have demonstrated that, due to the lack of free consent, the marriage was subsequently validated through subsequent cohabitation and the exercise of conjugal intercourse. The reason is that Joanna freely and spontaneously consented to neither. Let us now hear the testimony of the Actress herself. "I have never considered myself to be married; the consent that I gave was extracted from me by violence. These relations, which were, in fact, conjugal, existed in the beginning, but they lasted for a very short time, because of the profound repugnance that he inspired in me." She repeats and confirms the same thing more explicitly before the Judge of Second Instance, saying: "If I said, at Versailles, that I believed the conjugal relations to be licit, I meant that it was not possible for me to avoid them naturally, or that I did not believe that they engaged my conscience. In fact, I did everything to escape them; I was not strong enough against Mr. Victor, and it was absolutely by violence that he con-

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summated the marriage." From this first cohabitation, extorted by force, Joanna contracted a shameful disease, of which she herself makes mention, albeit veiled in modest language. On this matter, the Actress's sister, a relative, Madame Arnoult, and the Advocate A. Sanlis speak more explicitly, who testifies: "From what I know, this unfortunate young woman (Joanna) was subjected to a terrible situation. She was shamefully sacrificed, to the point of contracting a shameful disease." He adds: "The civil court, exceptionally and as compensation for damages, even in the absence of prior proceedings against Mr. Victor, due to the situation that the marriage had caused her, awarded her an allowance." Nevertheless, despite the cohabitation and intercourse, the coercion by force and fear persisted in Joanna. "Fear, however," says Didacus Covarruvias, Vol. II, page 144, "is not dispelled unless by spontaneous cohabitation for a sufficient length of time, from which it can be presumed that the cause of fear has been removed, and that spontaneous consent has been given." Furthermore, cohabitation, by itself, does not validate a marriage, when the person who suffered the fear lacked the will to ratify it, as stated in [reference number 1, presumably missing from the original text].

[*Latin ed. p. 84*]

84. From the decree of the Holy General Council, in the case clearly presented, it appears. Indeed, if Joanna always abhorred this marriage, as long as she lived with her husband, she constantly had bitter disagreements, reproaches, and quarrels with him, and she performed the very act of copulation, not only rarely and without any marital affection, but with an unwilling heart, indeed, compelled. "It is absolutely by force that he consummated the marriage." Now, however, according to the case XXVII, question 2, chapter I, marriage is not made by the act, but by the will. Cf. Gonzales, Commentary on Canon XXI, note 4, On Betrothal and Marriage. Furthermore, here there is no objection to the presumption of the consent of Joanna's daughter in the marriage, arising from a long period of cohabitation, as is mentioned in Canon XXI concerning Betrothal and Marriage, because, as the Glossa notes, it is there about a peaceful cohabitation, through patience; for it is said that because she patiently completed her age in the house of the man, it is presumed that she consented. Cf. Gonzales, in the aforementioned place, and Covarrubias, On Marriage, Part 2, chapter V, section 6, number 1. Thus far, we have demonstrated the nullity of the marriage based on the testimony of the woman, from the grounds of force and fear; it now remains to see whether this itself can be confirmed by the testimony of the seventh witness. And so it is plainly the case. For even Alexander de Guillebon and Paul d'Anville, relatives of the man, and Mr. A. Débette, whom, as we have seen above, are defenders of the husband's side, do not offer any solid argument from which it can be inferred that Joanna consented to the marriage. They testify that: 1° they know nothing

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of the threats made by the mother of the bride. 2° during the celebration of the marriage, they observed nothing unusual in her. 3° they state that her consent was "not sufficiently free." 4° finally, they attribute the dissolution of the marriage to the discrepancies in the characters of the spouses and to the burning desire of Joanna to marry someone else. Moreover, from these entirely negative arguments, it is impossible to infer that Joanna freely consented. Furthermore, the words spoken by both parents of the man in court are worthy of note, namely: "the consent was sufficiently free." Therefore, according to them, the consent on the part of Joanna was not entirely free. The remaining witnesses questioned, did all the things alleged by Joanna occur?

[*Latin ed. p. 85*]

VERSAILLES, OR PARIS. 85. All the witnesses, with one accord, confirm this by oath. For the sake of brevity, I shall not examine their testimonies individually, but rather in summary, carefully noting the places where the opinions of other witnesses on the same matter can be found. In this review, for the sake of clarity, I shall maintain the same order that I have established with regard to the allegations of the Plaintiff. Now, all the witnesses confirm that: Joanna experienced an unavoidable aversion towards the man assigned to her by her Mother. The Mother of the Bride states that as soon as she proposed the marriage to Lord Victor, the daughter immediately responded: "She did not want it, it did not please her at all; he was of a lower rank, coarse, very common... the horror she manifested at marrying Mr. Victor, she repeated to me constantly: 'You cannot force me to marry him; this is the misfortune you want for me; I do not want him.' Her resistance began from the very first day and lasted until the marriage. During Lord Victor's visits, she was very cold towards him, barely responding to him, and she always had some sewing or tapestry work that she was occupied with." Lord Clemens de Royer, advocate before the Supreme Court of Appeal of Lutetiae, Paris, testifies: "Miss Jeanne did not accept this marriage. She endured it, under circumstances that exerted a decisive influence on her mind. During a trip she made to Paris at that time, before the marriage, Miss Jeanne, whose sadness and worried demeanor I observed, confided in me that she was very unhappy." The Countess Vilain confesses that, before the wedding, she received letters from Joanna in which she expressed "the feeling of terror caused by this marriage." Margaret, the sister of the bride, testified: "From the very beginning, my sister said no outright. My sister spoke to me every day about her repugnance; she often wept, she did not want him, and when she received, in the company of my mother, the visits of Mr. Victor, it was..."

[*Latin ed. p. 86*]

86. "The body of the Most Holy Council defends this, and I was a wit-

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ness to all these things." This is confirmed by Lord Van de Branden and Lord I. Chambón. Concerning the attempts of Joanna to avoid marriage. - The mother of the actress confesses: "My daughter involved her own sister and her brother-in-law. Both represented to me that... that there would be disagreements too profound between them, and that this marriage would be unhappy." The relatives and sister of the actress, when questioned on this matter, repeatedly, but always evasively, advised their mother not to urge the marriage. And this, in truth, is abundantly testified to by Lord Angliviel de la Beaumelle. To obtain her daughter's consent, the mother employed not only the most insistent prayers, but also harsh words and quite serious threats. - The mother herself stated these words: "...and as she did not yield, I began by telling her that I would no longer concern myself with her, that I would never give my consent for another marriage, which, moreover, was my will, that I would disinherit her, and as I did not want this resistance to last forever, I threatened to send her to the convent, that I would cast her out, that I would send her to her father. From the very first day, on the day of Victor's visit, this pressure began on my part, and it lasted until the marriage, and even as we approached the marriage, it increased. It did not cease until my daughter said yes." The advocate, Lord Clem. de Royer, confirmed that the mother, in order to obtain her daughter's consent, terrified her with serious threats. "She threatened to close her house to her, to throw her into the street, if she dared to go against her will... she threatened to have her sent away to find her father, whose exact address was not even known." Lord Angliviel de la Beaumelle testifies that: "Faced with her daughter's repugnance, she (the mother) insisted with the violence of character, which was quite habitual to her, and which constituted a true moral pressure, going so far as..."

[*Latin ed. p. 87*]

VERSAILLES. OR PARIS. 87 "The threat of abandoning her, of leaving her to herself, without support, could exert the most violent moral pressure, given the particular circumstances in which the young woman found herself. I believe that in this situation, she lost her free will." The sister of the actress confesses: "I was a witness to these threats and the constant scenes that took place every day for the five weeks that were sufficient to negotiate and conclude this union." The same threats are mentioned by the Viscountess Vilain, Monsieur Chambon, and other witnesses, some of whom, although they do not dare to affirm it definitively, because they could not have heard it directly, nevertheless, considering the stern and unyielding character of the mother, suspect that the threats were indeed made by her, and not without reason. Joan consented to the marriage under unavoidable force and coercion. - This is strongly confirmed by the testimony of five witnesses, who affirm under oath: that Joan, unlike her usual demeanor, did not approach the church joyfully, but as if she were

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being dragged to execution, pale, sorrowful, and weeping, to receive the nuptial blessing. The mother says: "She wept throughout the morning, she left very pale for the church, and she prayed as she had never prayed before, the poor child!" She adds: "At the moment of leaving for the town hall, there were more tears and grinding of teeth." The bride's father confirms: "On those days, I found her excessively sad; my daughter had tears in her eyes as she went to the church." The sister, Monsieur Van de Brand, and Madame Arnoult also saw her weeping. Furthermore, everyone will readily concede that, to establish the certainty of a consent that was not freely given, no argument could be more eloquent or more convincing than her very tears. Finally, after two relatives and the Reverend Monsieur Alphonse Débette, all the witnesses who were summoned to court, with almost the same words, affirmed her...

[*Latin ed. p. 88*]

88. Following the persuasion of the Sacred Council, and confirming it with the sanctity of an oath, they declared that Joan had entered into marriage unwillingly; therefore, her marriage was null. Not only they, but also the common people, came to the same judgment; for Lady Arnoult testified that: "it is said in the world that she was marrying against her will, and that her mother was the cause of this marriage." And this is confirmed by Mr. Viel, and by the Reverend Monsieur Bouvarlet, Vicar General of the Bishop of Arras, in a letter to the Vicar General of Versailles, stating: "From the totality of the testimonies, and according to the information provided by public opinion, it appears that Miss Jeanne suffered a moral coercion, which seriously affected her freedom in the matter of her marriage." Thus far, having presented what has been explained, let us hear Monsieur Clem. de Royer, the lawyer, as we have seen, before the Supreme Court of Paris. When questioned by the Ecclesiastical Judge of Versailles, to give, as a legal expert, his judgment regarding the freedom of consent of Joan in this case, he responded thus: "I am convinced of this, without any doubt whatsoever. And I will explain. The moral violence that the law provides for has precisely manifested itself in the case before me, in the most serious conditions. First, Miss Jeanne was very young, she had no one to confide in, and the pressure was exerted by her mother, who combined maternal authority with threats that were likely to affect the imagination of one who was still a child. Indeed, to tell a young girl of eighteen years, well-bred, that she will be thrown into the street, without resources and without any possible refuge, is to exert the most terrible moral violence that one can imagine." Again, when asked if he could provide a similar example from the civil forum, either in Rome or in Paris, he replied: "I know of several analogous cases, one of which, in particular, has many similarities to the case of Jeanne. It concerns the nullity of the marriage of Fleures Deslandes, pronounced

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due to lack of consent. The circumstances and the elements on..."

[*Latin ed. p. 89*]

VERSAILLES. OR PARIS. 89. Those decisions which were rendered then, in my opinion, possessed a much less pronounced character of gravity than in the present case, and the fear resulting from the violence exercised was to occur, and did occur, under much more serious conditions at the time of Miss Jeanne's marriage. The same questions were put by the Ecclesiastical Judge to the advocates Angliviel de la Beaumelle and A. Sanlis; and both, with remarkable agreement, adhered to the opinion of Royer. Therefore, having diligently considered all that has been explained and discussed thus far, it grants me the right to conclude that the judgment rendered by the Courts of Versailles and Paris should be confirmed, in which they unanimously declared: "It is established that the marriage contracted between Victor and Joanna is null."

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE EX OFFICIO. On July 3, 1883, the noble and highly esteemed young woman Joanna entered into a marriage with the equally noble and wealthy young man Victor in the basilica of Our Lady in the town of Boulogne-sur-mer, in the diocese of Arras. On December 17, 1895, she presented a petition to the Versailles Judge, in which she stated: "My consent was not fully voluntary, because I yielded only to a violent pressure exerted upon me by my mother... The conjugal life with Monsieur Victor lasted two years and three months, outwardly, but in reality, - for a reason which I hesitate to write - a de facto separation existed from the sixth month after my marriage. I will explain myself more clearly in the investigation. An intolerable life forced me to request a separation of bodies, which I obtained on March 10, 1887, by judgment of the Tribunal of Boulogne-sur-mer. - Three years later, Monsieur Victor had my separation of bodies converted into a divorce - and since then he has remarried." What Joanna asserted, was most graciously accepted, not only by the Court of Versailles, but also by the Judge of Paris, who, however, in transmitting the acts of the proceedings, noted among other things: "The defender of the bond, acting from the dictates of his conscience..."

[*Latin ed. p. 90*]

90. Concerning the appeal to be presented before the Holy Congregation. – The cause appeared to be very difficult; for although the facts have been fully proven, they are neither numerous nor grave. Nevertheless, I am confident that even an eminent Consultor, chosen by the Holy Congregation to examine such matters, will grant the actress's petition, and that the entire matter will be resolved quickly. The mother, who is said to have instilled fear in the actress, indeed seemed concerned in seeking a suitable husband for her daughter, but was acting in a way that was most pleasing to the

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daughter herself, who desired to be married. "During the negotiations for the marriage of Monsieur Victor," says Hector Van de Branden, the brother of the actress, "my wife and I were in Belgium; it was a diplomatic journey, in that, obsessed by the requests of Jeanne's mother, who pressed me to find her a son-in-law, I made the journey to Belgium in order to escape her importunities and to speak with several people in Belgium who could take care of the matter." The actress, in turn, reported to the Judge of Versailles: "I must add that Monsieur l'abbé Débette was a friend of both families; I myself asked him, in order to avoid the marriage with Monsieur Victor, to make arrangements on my behalf with a gentleman – who pleased me more and whom I would have liked to marry." And when asked by the Defender of the Sacrament: "Did Monsieur l'abbé Débette inform you of the success of his efforts?" she replied: "Yes, his efforts were unsuccessful." When the same Defender of the bond urgently asked: "Did he inform you of this failure before the conclusion of your marriage?" she answered: "Yes, before my marriage." What is surprising, then, that Joanna, frustrated in her desire and exasperated by her mother's concern, should have set her heart on a man who was less pleasing to her? This, I believe, and nothing else, is what she demonstrates when she says: "I had learned that Monsieur Victor associated with young men of bad character and a scandalous reputation, who were not of his world."

[*Latin ed. p. 91*]

In the Parisian district of Versailles, number 91, resided, among others, a photographer known for his notoriously deplorable conduct. I had requested that, should he marry, he abandon such pursuits. This occurred approximately eight days before the wedding. Indeed, I knew, as much as a well-bred young woman could know, that Mr. Victor maintained certain undisclosed relationships, particularly with a certain chambermaid who, on that very day, refused to serve us. This provided an opportunity for me to speak with Mr. Victor. I even discussed this matter with Mrs. [my future mother-in-law], who responded: "Do you truly believe that Mr. Victor will quarrel with all his acquaintances simply because he has married Miss Jeanne?" She repeated these words to me several times after the wedding.

Maria, the actress's mother, testified: "One day, Mr. Victor was to arrive, and following the incident at dinner that I recounted in my previous deposition, my daughter asked me to allow her a moment alone with Mr. Victor. I remained in a nearby room, so that she might speak with him about matters of importance concerning her future. My daughter was distressed by the incident with the chambermaid, and above all, she wished to ask him to cease his relationships with certain individuals who were not of our circle, yet whom he received in his home. My daughter immediately informed me of the conversation she had had. I feared that she would take advantage of this conversation with Mr. Victor to tell him that she did not wish to marry

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him. She immediately recounted to me that she had asked him to cease his relationships with those he frequented, and that she had declared to him that she would never receive them in her home. Mr. Victor promised her this, as he also promised it to me, but he never kept his word."

While Joanna thus acted with Victor, and set forth conditions for proceeding to the celebration of the marriage, in order that she might consider her future conjugal tranquility, the mother of Joanna was determined to completely break off the marriage negotiations. She said: "Trois ou qua-"

[*Latin ed. p. 92*]

92. EX S. C. CONCILII: Trois jours avant le mariage, il y eut un dîner chez la belle-mère de M. Victor. Nous étions tous surpris par le retard du dîner, lorsque Mme, la mère de Victor, nous arriva discrètement et nous dit : "La femme de chambre ne veut pas servir, car elle est la maîtresse de Victor." J'ai été extrêmement offensée par la conduite de cette dame; faire servir le dîner par une femme comme celle-là et nous exposer à un tel affront! J'ai eu avec elle des explications pénibles. M. l'abbé Débette assistait à ce dîner. Le lendemain, je suis allée trouver cet ecclésiastique, lui faisant part de mes perplexités: il m'a encouragée, en disant que M. Victor se rangerait, qu'il fallait réfléchir avant de rompre un mariage au dernier moment. J'ai alors cru devoir avoir une explication avec M. Victor lui-même, non sur l'inconséquence de sa belle-mère, mais sur ses relations. Il m'a donné sa parole d'honneur que tout était terminé, rompu, qu'il était décidé à se donner tout à sa femme. Dans ces conditions, le mariage s'est fait."

Ex matrimonii igitur consequentibus, potiusquam ex antecedentibus repetenda est ratio cur eiusmet nullitatem accuset actrix, prouti clarius adhuc profitetur Hector Van de Branden, vir sororis actricis: "M. Débette savait la conduite de M. Victor, mais il espérait qu'il se rangerait. Malheureusement, cet espoir ne s'est pas réalisé. Si le mariage avait été heureux, on aurait été reconnaissant à M. l'abbé Débette."

Verum ne longius abeam, pone etiam, Ioannam assertum metum revera passam esse. Quid inde cum hic metus nec ille sit, qui conditionibus polleat a iure nostro requisitis, nec ad actum usque celebrationis matrimonii ceu a iure nostro pariter requiritur, perduraverit? Praeprimis enim matrimonium tunc tantum sub oppressione metus contractum dici potest, quum aestimatio mali, quod timetur, est adeo fortis, ut de praesenti animum praeoccupet, et eiusdem timor instet in contractu, veluti tradit doctissimus San-

[*Latin ed. p. 93*]

VERSAILLES OR PARIS, 93, in *De Matrimonio*, Book 4, Disputation 1, numbers 15 and 16 – there, "The second condition for fear to be present in a steadfast man is that the estimation of the evil feared must be strong, that

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is, the one who fears must not believe lightly and vainly that that evil threatens him, but rather probably and reasonably… Hence, the understanding applies to *L. metum* [the law concerning fear], concerning that which causes fear – but we must understand present fear, not the suspicion of causing fear, but if fear has been instilled by someone; where it is clearly shown that it is not sufficient for fear to be merely a suspicion, but that fear must be present and pressing." The gloss on *L. 1 ff.* of the same title, under the word "vel futuri" [or future], notes that, although a future evil is the object of fear, it is necessary that fear must be present and pressing, and this is what the gloss in chapter *ad audient, v. causam*, verses *de his quae vi etc.*, *Antonin. Hostiens etc.*, also taught.

Regarding the matter, in the terms of the Holy Rota, decision 600, number 2, page 4, recent – there, "Not every fear suffices to dissolve a marriage, but only that fear which falls upon a steadfast man and by which consent is entirely removed from the act of contracting. Furthermore, there is a great difference between fear passively conceived in the mind and fear actually instilled and imposed. In the first case, it may be more difficult to judge whether it is such a fear that can fall upon a steadfast man, because the proof depends directly on the mind, and it cannot be directly obtained; and through indications and conjectures, it is very doubtful, unless they are necessary and conclusive, as is required when it is a matter of a marriage covenant. In the second case, fear does not always remove consent from the act, unless it is proven together with the act itself; nor is it sufficient that it precedes or follows, because before the marriage, the proof remains ambiguous due to the possibility of a change of will, which is variable and wavering; and afterwards, it is not valid, unless the fear serves as support for prior proof, which, if it is lacking, the support is not sufficient." This is fully in agreement with Decision 301, number 25, part 11, recent – there, "No force can be exerted in public voice and reputation, which the aforementioned witnesses assert concerning a marriage that was entered into under duress."

[*Latin ed. p. 94*]

94. It is established by the decrees of the Holy General Council that credence should not be given to such accounts, not only because their authors and those from whom they heard do not provide reliable information; but also because the statements themselves are thoroughly refuted by the testimonies of the witnesses, Domina Nicolea and others, who, having been examined freely and voluntarily, testified to the truth. Furthermore, the Most Reverend Fathers observed that the witnesses testified to the fact that the second marriage of the Domine Bishop of Fullens was celebrated by the Domine Bishop with an Apostolic dispensation, and that the events in Pernes, if any such events occurred previously, could have been resolved over time, and therefore do not affect the validity of the marriage, since

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no evidence of coercion was proven in the act itself. And this very point is clearly taught in the confirmatory Decree 334, n. 12, cited above, part 11, and in the decision of the Sacred Congregation, dated April 29, 1854, which was discussed before the Sacred Congregation. When the matter of coercion and fear, which prevented the consummation of the marriage, was being considered, it was appropriately noted in the Synopsis, § "Even if there was a serious fear before the beginning of the marriage, it does not necessarily mean that the fear persisted during the actual celebration of the marriage; indeed, the documents presented demonstrate that the woman subsequently freely consented to the marriage..." After these considerations, any prior protests made by the woman regarding coercion, fear, and her aversion and opposition to the marriage, are to be considered without value, either because human will is changeable, and therefore can recede from its purpose; or because the Church does not judge internal and hidden matters, as is observed in the Glossa in cap. "Tua nos," concerning betrothal. Therefore, after the doubts were raised: 1. Whether the marriage is null in this case; and, to the extent that the answer is negative: 2. Whether it is advisable to request a dispensation from the valid but unconsummated marriage in this case, the following response was given: "To 1. Negatively; to 2. Affirmatively." Finally, it must be the case that the one who instills fear, not only must be able to carry out the threats, but must also be accustomed to carrying them out; while the one who suffers coercion is completely unable to avert the threats. Thus, the most learned Sánchez states, cited above.

[*Latin ed. p. 95*]

VERSALLES, or PARIS. Book 4, chapter 1, paragraph 19 and following. – There – "The third condition is that the one who inspires fear must have the power to carry out the threats; for it is not fitting that a constant and strong man should be frightened by mere threats... However, this must not be understood as meaning that the one who threatens must truly be able to carry out the threat, but rather that the one who is afraid must reasonably believe that he can carry it out... The fourth condition is that the one who inspires fear must be accustomed to carrying out threats; otherwise, if a man is easily given to making threats, and more easily abandons his anger, he will carry out little or nothing. It is clear from the law, *Lex Ulpianae*, that if someone says to the emperor, 'there,' – referring to people – and from the famous law addressed to the magistrate under Julius, 'there,' – for it is necessary to consider the person, whether he was able to do it, and whether he had done anything beforehand; and it is better from the law, *Lex Merum*, concerning those things done by force, 'there,' – that fear arises not only from mere words or disputes, but from the atrocity of the deed itself..." – The final condition is that the one who is afraid should not be able to easily avoid the evils that are feared; for if he could easily avoid

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those evils by some other means, such as by asking for someone's help, or by consulting a superior, then the fear would not be in a constant man. For a man is inconsistent and timid if he fears those evils which he can easily avoid, and he wrongly persuades himself that that evil will occur."

Furthermore, Joan, when first questioned by the judge: "What was the attitude of Mr. your father on the occasion of your marriage? Did he give his consent?" replied: "My father had no part in my marriage. He saw Mr. Victor, whom we went to present to him, about fifteen days before. The impression was unfavorable. But he declared that he was not involved in it, that he disavowed it. He did not inquire about anything. He came to the house the day before the civil marriage as a stranger. He gave his consent and left a few days later."

Joan's father, a retired colonel, swore before the judge: "I was not living with my family at that time (during the marriage negotiations)... But appearances were always maintained, and I did not cease to see my family."

[*Latin ed. p. 96*]

96. "Deinde, ex decreto Concilii [Mme.], uxor mea interdum veniebat ad me per aliquot dies, et ego, ex parte mea, ad eam." "Et cum interrogabatur: 'Num estis certae quod illa habuit libertatem sufficientem ad contrahendum matrimonium?', respondit: 'Censeo quod ibat pressio valde violenta ad eam ad hoc matrimonium adducendi; illa mihi fecit reprehensionem valde lenem. Quoniam dicebam illi: 'Sed videtur mihi valde tristis es', respondit mihi quod si ego ibi fuissem, illa non contraxerat hanc unionem quae ei displicebat, sed quod iam erat nimis tarde.'" "Ipsa Ioanna addidit: 'In praefectura et in ecclesia dedi assentimentum capite(?), et signavi, sed contra voluntatem meam. Ascendens gradus praefecturae, mater mea, percussa a contrito animo, appropinquadavit mihi et dixit mihi: 'Filiola mea, adhuc est tempus, dic mihi si consentis, si vis.' Quocirca, non respondi. Adveniēbam in aula matrimonii, iam non erat tempus...' Matrimonium in ecclesia factum est die post diem in quo ad praefecturae iēmus." "Mater Ioannae testatur: 'Die matrimonii civilis, reliqui brachium personae quae me comitabatur, in ipsius scalae praefecturae, et appropinquadavi vehementer filiae meae, et percussa fortasse a ultimo contrito animo, dixi illi: 'Adhuc est tempus, Ioanna, si vis dicere non.' Illam respui longius sine mihi respondendi, et adveniens in aula praefecturae, dixit 'sic.'" "Ex his, manifestum est quod Ioanna non defuit ad evadendas minas matris, et quod timor, ita de die in diem crevit, ut uno saltem integro die ante matrimonium, vel ipsa suspicio timoris (quae nihil operatur in re nostra) omnino evanesceret. Itaque, si ipsa Ioanna 'circa octo dies ante matrimonium' cum sponsore, remotis testibus, voluit conferre 'de rebus importantibus quae concernēbant futurum suum,' dum mater erat in eo ut matrimonium frangeret, nonne demonstrat timorem, si quem actrix antea conceperat, tenuem

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in auras ab-"

[*Latin ed. p. 97*]

VERSAILLES, OR PARIS. 97. Again: While Joan was visiting her father, "the day before the civil marriage," she made "very gentle reproaches," expressing concern that if he had been present, "she would not have entered into this union"; does she not demonstrate that she could have sought her father's help long before, by letter, and that he would have been available to her if she had wished? However, she claims that "it was too late." But why "was it too late," when the very next day her father arrived, and a full day before the marriage, her mother declared: "It is still time, Jeanne, if you wish to say no"? Joan attempts to weaken the force of this argument; for she told the Parisian judge: "I believed that my mother was seized by a violent remorse, and that she was saying that it was still time to stop this marriage. If I did not respond (to my mother), it was because it was too late; because the scandal of my refusal at that moment, dressed as a bride, before the guests, would have been much greater than that which had made my mother back down two days earlier, when she claimed that it was impossible to delay... I did not back down, because I was in the impossibility of doing so." How much weight should be given to these words, everyone with a sound mind can see. I will not argue from the preceding observations noted above, nor will I say that the anxieties of this kind, in which she found herself involved, are to be attributed to her own neglect in seeking her father's help; I will only point out that the very words she uses reveal that she either celebrated the civil ceremony not under the pressure of fear, but for other reasons not relevant to our matter, and that sufficient time remained for her to deliberate, and indeed to free herself from the very anxieties she expressed. Since the celebration of the marriage was scheduled for the following day, what prevented the actress from, in the meantime, alleging some minor bodily need or any other pretext to postpone the wedding, ostensibly to ensure that the preparations were complete, but in reality to avoid the marriage? *Acta*, Volume XXXIII, page CCCLXXXVI, 7.

[*Latin ed. p. 98*]

98 EX S. C. CONCILII. Furthermore, in order that, as far as I am concerned, I may more fully fulfill my duty, I shall say that perhaps there will be those who doubt whether true threats actually occurred. For Joanna says, "The witnesses will attest to it"; but who proves this? Only the sister of the actress, one person, is found who relates, from her own knowledge, about the threats. The other witnesses indicate that they learned about the matter from elsewhere, and especially from the daughter or the mother. Indeed, how could they know if the mother herself is truthful, when she says, "We are accustomed to keeping our affairs private, and no one else has

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spoken to me about this marriage?" Leo Angliviel de la Beaumelles, when questioned by the judge, "Would you have any proof that there were even threats?" replied, "This became clear to me from my conversations with Madame Van den Branden, the sister of the actress." Alicia Vice-comitissa Vilain said, "She (Joanna) spoke to me... about the threats that her (mother) made to send her to the convent, and to no longer care for her." Finally, to mention others, Clemens de Royer, the lawyer, when, after almost offering a prayer for Joanna, he was questioned by the judge, "How did you become aware of all these intimate details?" replied, "I learned these details 1. immediately after the marriage from Madame Jeanne herself, who confided them to me on her first trip to Paris; 2. they were confirmed to me by her sister and her brother-in-law; 3. wishing to verify for myself the truth of what had been told to me, I spoke to Madame, the mother..." After these things, who could suspect that these accounts might perhaps be what pleased either the actress or her intimates? Furthermore, Hector Van den Branden, the husband of the actress's sister, who was staying with the bride at that time, expresses himself as follows: "There could only have been moral threats." Although, even if threats were made, I find it difficult to believe that Joanna convinced herself that her mother would carry out what she threatened. For she had always been treated well by her mother. "I have always been affectionate towards my children," said the mother, "but in the face of her resistance, I showed myself to be severe." The father concludes, "She (Joanna) loved her mother."

[*Latin ed. p. 99*]

AT VERSAILLES, OR PARIS. 99 "who, moreover, repaid it to her." Hector Van den Branden affirms the same, who, after recounting the father's conduct towards his daughter, said concerning the mother: "As for Madame la mère, she was not the same with her daughters." Therefore, if the mother had always been affectionate towards Joanna and had repaid her affection with affection, there is no way that this woman could have believed that the mother had suddenly become so changed as to threaten her with what she was about to do. But what importance do these threats hold? The disinheritance does not hold according to French law; certainly, the mother could not have forced her, against her will, into a monastery; and what harm would it be if she were to live with the father, especially since the daughter wished to marry Victor, about whom the father himself said: "My impressions were bad; I said it in a very direct way." I will not proceed further, but I ingenuously confess that another fear arises in me. Although the opinion of Versailles holds weight: "If the witnesses are joined to the plaintiff by a greater degree of kinship or friendship, and appear to be moved by the same misfortune, nevertheless, information about their honesty and prudence is such that their testimony should be given certain credence"; and the esteemed S. O. O. Consultant added: "But

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these witnesses, not only in their opinions, but sometimes also in their words, show a remarkable agreement, which I believe is due not to the 'vice of collusion,' which is not at all apparent from the records, but to the very evidence of the facts themselves"; nevertheless, these witnesses reveal themselves to be so moved by the misfortune of the woman that they even bring a certain force to the truth in matters that are by no means trivial. Thus, for example, Joanna's father told the judge: "I came the day before the civil marriage to the house," and said: "I did not see my daughter before the marriage except at the moment of taking her to the church." Similarly, Margaret Van de Branden, Joanna's sister, said: "My sister's resistance persisted and continued until the day of the marriage"; while we heard the mother saying the day before: "It is still time, Jeanne, if you want to say no." Also, Hector Van de.

[*Latin ed. p. 100*]

100. EX S. C. CONCILII. Branden, vir sororis actricis, testatur: « Domina mater persecutabat ubique abbatem Débette, ut ille influeret in Miss. Jeanne, ut eam ad hoc matrimonium adduceret. Miss. Jeanne erat eius penitenta.» Sed contra, ipsa mater actricis iurat: « Numquam mandavi domino abbati Débette ut meam filiam influenceret.» Deinde, ut alios adducam, Clemens de Royer, advocatus parisiensis, a iudice interrogatus: « Num pressio exercita super Miss. perseveravit usque ad matrimonium? » respondit: « Ita, non cessavit, sed etiam aucta est cum domina mater scivit filiam suam alium propositum habuisse.» Sed versa vice, mater Ioannae confitetur: « In illa hora, ignorabam filiam meam quemquam in animo habere; non scivi nisi postea, post calamitatem nostram, quae progressa sunt apud dominum abbatem Débette.» Post haec omnia, finem scribendi facerem, cum iam satis luculenter appareat, quam vim habeant verba actricis: « Consensus meus non fuit pleniter voluntarius, quia cederam sola ad vim violentam, quae super me exercitabatur a matre mea.» Sed quia ipsa ultra ulterius conatur infirmare suum assensum dicendo: « Ad Marium et ad Ecclesiam, 'oui' caput concessi,» non erit animadvertere, quod, praeterquam nullus testium super hoc referat, imo ex verbis nonnullorum bene percipi possit contrarium, adsit Hector Van de Branden, vir sororis actricis, qui aperte dicit: « Ego eram testis in matrimonio... credo quod illa non dixit 'oui' ex propria voluntate.» Esto quod pietate et miseratione ductus erga actricem in eius favorem velit retorquere 'oui'; attamen, dicit dixisse. Adest insuper sacerdos Alphonsus Débette, qui tunc erat vicarius curatus à Boulogne-sur-mer, et qui ad versaliensem iudicem retulit: « Omnia quae dicere possum, utrumque sponsum respondit ad interrogationes, quas celebrans, ipse, eis in talibus circumstantiis proposuit, respondit, dico, affirmative.» Quaquaversus igitur res inspiciatur, eadem semper redit conclusio: non constare de

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nullitate matrimonii in casu.

[*Latin ed. p. 101*]

VERSAILLES, OR PARIS. 101 And this is the response, which is given by the most wise E. E. W. Having considered these matters, it was deemed necessary to examine the case. The doubt concerning whether the judgment of the Archdiocesan Tribunal of Paris should be confirmed or rejected in this matter was presented. RESOLUTION. The Holy O. C. (Ordinary Council), after deliberation on May 19, 1900, decided to respond: From what has been presented thus far, it does not sufficiently appear that there is a nullity of the marriage. FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS OF ASTI. Dated March 16, 1900. SUMMARY OF THE CASE. This cause, which concerns the Bishop of Asti and the "Small House of Divine Providence," commonly called the "House of Cottolengo" in Augsburg, Turin, regarding the property or belonging of the "Pius Opera of Saint Clare" in the city of Asti, was brought before the Sacred Congregation of Bishops and Regular Canons for the third time. The question was first proposed on April 10, 1897, under the following doubt: — Whether and in what manner should the building of Saint Clare in the city of Asti, with all its books, money, documents, whether public or private, wills, and other similar titles pertaining to the assets and administration of the "Pius Opera," be transferred from the "Small House of Divine Providence" in Augsburg, Turin? The Fathers responded: — Negatively in all respects, and with the following understanding: It is the opinion that the building and all the assets of the Institute of Saint Clare belong to the pious works under the authority of the Bishop of Asti, founded there.

[*Latin ed. p. 102*]

102 FROM the writings of the Holy See, of the Congregation of Bishops and Regulars, dated May 11, 1883. The direction and administration of the foundations of the Little House [Parva Domus] pertain to the same Bishop, who can employ those whom he judges worthy and suitable in the Lord for these duties. Likewise, it belongs to the Bishop to have the right and the duty of ensuring that a civil representative is appointed who is worthy of all trust and who obeys his mandates. Meanwhile, the same Holy Congregation ordered the Bishop of Asti to compel the current, civil possessors to cede their representation to other persons designated by the same Bishop, as he deemed it opportune. Against this decision, the defenders of the Little House petitioned the Sacred Congregation and obtained a new hearing, but with no better outcome. Indeed, the case, having been presented anew in a plenary session on July 1, 1898, under the usual formula of doubt: Whether it is necessary to adhere to or depart from the decisions in this case, received the confirmation of the judgment with the response: "Adhere to the decisions, and further." Nor did the Administrators of the

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Little House obtain any success with this second decision, which already had the force of res judicata; but, with the united prayers of the Archbishop of Turin and several Bishops of the Kingdom of Piedmont, they finally obtained, through an extraordinary means, this revision of the case from the Supreme Pontiff. Furthermore, by a rescript of the same Holy Congregation dated March 28, 1899, the Archbishop of Turin was delegated to receive certain testimonies, of which we shall speak later, in a new examination. Now, since the decisions previously mentioned could not be published through a newspaper, it is advisable to provide a brief history of the facts to clarify the matter at hand. In the year 1874, in the city of Asti, a pious man, John Cerrato, founded a hospice for the chronically ill in his own home, and entrusted its care to sisters of St. Vincent, who were dependent on the Little House of Divine Providence of Augsburg, Turin, which later, namely around the year 1876, were requested by...

[*Latin ed. p. 103*]

ASTI. There were 103 other sisters, commonly called Rosa, or Rosine. In the year 1882, the Founder, Cerrato, with the consent of the Bishop of Asti, ceded the hospice, together with the house, to the Canons of the Cathedral of Asti, Sardi and Morello, under certain conditions. In the following year, 1883, the Sisters of Saint Vincent were again invited. It should be known that at that time, the city of Asti was the scene of a great scandal: indeed, the Monastery of Saint Clare, together with the church, which had been seized by the Government under the law of suppression, had already been sold to a private individual, who intended to use the convent as a private residence and the church as a theater. However, this individual readily offered to relinquish such property for the sum of one hundred thousand livres. Therefore, in order to remove this scandal as quickly as possible, the Fathers of the Doctrine were first invited to purchase it. When they refused, the purchase was proposed to the Little House of the Divine Providence, with the intention that the hospice for the chronic sick of Cerrato, administered by the Sisters of Saint Vincent, commonly called "the V," be transferred there. The Superior of the Little House of the Divine Providence was unable to accept this proposal, both because she lacked the necessary funds, and because, according to the spirit of the Institute, the diversion of funds for this purpose was prohibited. Nevertheless, under the care of the General Vicar of Asti, the Reverend Bertagna, various offerings from pious individuals were collected, among which was an offering of 26,000 livres from the Superior, and a sum sent by Father Bossi in the name of a certain benefactor. Before the purchase and sale of the building were completed, the Bishop of Asti presented a humble petition to the Holy See, in which, having explained that various sums had been offered by several benefactors for the restoration of the church for worship and the monastery for pious use, he requested the authority to stipulate a contract

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in the names of individuals who would provide security based on their moral qualities, and who would be designated by the Bishop himself. The Holy Congregation of Bishops and Regulars, in a decree of May 11, 1883, granted the necessary and appropriate powers to the Bishop of Asti, so that he might proceed with the aforementioned.

[*Latin ed. p. 104*]

104. From the decrees of the Council of Trent, and from other ecclesiastical and canonical regulations, it is clear that, according to their own judgment and conscience, bishops and religious superiors can and ought to provide for all things, in accordance with prayers, prescribed precautions, and the requirements of the times. Following this rescript, on June 14th, a contract of purchase for the building of Saint Clare was initiated for the price of 100,000 livres, in the name of four persons designated by the Bishop of Asti for civil representation; namely, the Vicar General Bertagna, the canons Sardi and Marello, and the priest Bellino, who paid only 38,540 livres in the actual instrument. In the year 1884, the hospice of the Cronicorum Cerrato was transferred to the purchased building, the administration of which was dependent on Father Bosso, Superior of the Small House of Divine Providence, but in reality was managed by Canon Marello. The four titular purchasers of the building of Saint Clare, in order to provide for the best possible security for the pious institution, established a holographic will in which each wrote, for his own share, that the surviving titular heirs would inherit. Meanwhile, in order to better promote the spiritual welfare of the Cronicorum, and to restore the church to worship in the aforementioned building, the Institute of Brothers of Saint Joseph, founded by Canon Marello since 1878, was transferred there with the consent of Father Bosso. The principal purpose of this pious association was the religious education of youth. This pious association opened a college for students at the aforementioned location to promote vocations to the religious life, and in the following year, 1885, a pious house for orphans and abandoned children was also opened there. The universal director of these works was Canon Marello, who had established his residence in the building of Saint Clare. Later, in the year 1889, Father Marello was promoted to the episcopate of Aquensem, and entrusted the direction of the pious works to Father John Baptist Cortona, who assisted him in the ministry of administration while serving as Rector of the college. In the year 1892, the titular priests of the building of Saint Clare, Rmi D. Sardi and Bertagna, represented them.

[*Latin ed. p. 105*]

ASTI. In the year 105, a portion of the license granted by the Bishop of Asti to the priests of the Small House of Divine Providence of William and Angel Merlo ceased to be in effect. Subsequently, in the year 1895, another portion of that license ceased to be in effect due to the actions of the canon,

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Bellino. Bishop Marello refused to follow this example, even though he was invited to grant a concession from the Small House of Divine Providence, causing the building of Saint Clare, with its attached church, to fall under the jurisdiction of the Bishop or Ordinary of Asti, as stipulated by the decree of May 11, 1883, mentioned above. From this arose disagreements between him and the Small House, which were further exacerbated by the fact that Bishop Marello, without consulting the Small House, purchased the Castle of Frinco and other properties in order to establish a new college called the College of the Brothers of Saint Joseph. Several attempts at reconciliation were made from time to time, either by the parties themselves or through intermediaries, but all were unsuccessful. Meanwhile, unexpectedly, the Reverend Bishop Marello passed away on May 30, 1895. Canon Pagella, the Vicariate Capitular of Acqui, declared to the Bishop of Asti that he had been instructed by the deceased Bishop Marello to present the allegations in this matter to the Holy See, and that Marello had also written to the priest Peloso, bequeathing to him a fourth share of his estate for the representation of civil matters in the building of Saint Clare, to the priest John Baptist of Cortona. Furthermore, before the dispute was referred to the highest judgment of the Holy See, the Bishop of Asti attempted to resolve the matter by appointing his own representatives, the priests Pagella and Peloso, to negotiate a settlement, but to no avail, just as the Bishop of Acqui, Balestra, who was delegated by the Holy See, was unable to achieve a reconciliation between the parties. Thus, it became necessary to resolve the matter through legal proceedings. A Synopsis of the Dispute. THE RIGHTS OF THE SMALL HOUSE OF DIVINE PROVIDENCE, COMMONLY CALLED DEL COTTOLENGO. Those who are pursuing the cause of the Small House first deny the standing of Riho Pagella in the court.

[*Latin ed. p. 106*]

106 FROM THE DECREES OF THE BISHOPS AND CANONS, because he lacks jurisdiction in the diocese of Asti, and because he cannot present any document proving that he has been authorized to manage the affairs of the Curia of Asti, either by the Bishop of Asti or by the late Bishop Marello. Moreover, they add that, since Bishop Marello designated the priest Peloso as his heir and the priest Cortona as his legate, it seems that he intended to exclude Mr. Pagella from the matter in question. However, it can be observed and established that Mr. Pagella was delegated by the Bishop of Asti to negotiate with the "Parva Domus" before the matter entered the judicial process; furthermore, Mr. Pagella, besides having signed, along with Peloso and Cortona, the appeal to the Sacred Congregation *E E. et R. R.* against the "Parva Domus," is the Superior of the Sisters of St. Rose, who provide service and assistance to the poor in the building of St. Clare; therefore, since he has an interest in such a case, he cannot be dismissed. Having stated this, the "Parva Domus" contends that it had been providing

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hospitality to Mr. Cerrato for chronic illnesses, before he was transferred to the building of St. Clare. It proves this with a letter dated December 14, 1875, sent by Father Anglesio, then Superior of the "Parva Domus," to Mr. Cerrato, who had requested the acceptance of the hospice under his protection and administration. In this letter, Father Anglesio declares that he is accepting the hospice, calling it a branch house of the "Parva Domus" of Turin, and simultaneously requests Mr. Cerrato's cooperation in its management. Mr. Cerrato, in turn, writes at the end of this letter that he gives thanks to God for such a benefit. However, it is objected that in the year 1882, the titulars of the hospice were not taken from the "Parva Domus," but were named Sardinian canons and Marello; to which the "Parva Domus" replies that this inscription was made with its consent and intervention; otherwise, the "Parva Domus" could not have acquired it in its own name due to a prohibitive law of July 3, 1830. It also notes that the hospice's sustenance was provided with funds from public beneficence, and that its administration was held by the Sisters of St. Vincent, who represented the "Parva Domus." It is true that Father Anglesio recalled them from the hospice.

[*Latin ed. p. 107*]

ASTI. 107. He was compelled to leave due to excessive interference in the administration of the Cerrato Foundation, but the heirs of the aforementioned Sardi invited him again, and the successor of Father Bossi, of Angles, agreed under the condition that the hospice would be entirely dependent on the *Parva Domus*. Having established these facts concerning the belonging of the Cerrato hospice before its transfer to the building of Saint Clare, the *Parva Domus* proceeds to the arguments by which it seeks to demonstrate that the building of Saint Clare, to which the hospice transferred itself, and also the entire administration of all the pious works existing therein, exclusively belongs to it. Firstly, from the declarations of both the Reverend Bertagna and the canon of Bellino, it has been ascertained that the *Parva Domus* was repeatedly urged to acquire said building, and that the acquisition was registered in the names of the titulars, primarily in order that the Cerrato hospice might be transferred there, and that Father Bossi, the Superior of the *Parva Domus*, was invited to assume the administration of the building, which he actually did by sending the sisters from Saint Vincent. Furthermore, it becomes increasingly clear from the most recent sworn declarations of September 29, 1899, of the Reverend Bertagna and Bellino, of the Bishop of Ressia, and of the lawyer Martini, of the *Parva Domus*, who were particularly involved in this matter, that the purchase of the building was made for the *Parva Domus* or in its interest. With these facts established concerning the historical truth of the events, the Director of the *Parva Domus* reasons as follows: Either the Bishop of Asti, Ronco, made supplications to the Holy See for the purchase of the

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building according to the mandate received from the *Parva Domus*, and in that case, the rescript must be interpreted according to the intention of the one who issued the mandate; or he did not act according to the received mandate, and in that case, since the supplications must be considered as deceitful and fraudulent, the rescript must be invalidated. Therefore, to resolve this question, the following doubt is proposed: Whether the rescript of May 11, 1883, should be interpreted solely in itself and according to the supplications as they literally sound, or rather according to the mandate and the historical truth; and, to the extent that the answer is negative to the second part, whether the rescript is not invalidated for the cause of fraud, and therefore should be abandoned; and if the answer is negative in all respects, whether the *Parva Domus*...

[*Latin ed. p. 108*]

108. From the Most Holy Congregation of Bishops and Regulars: It must not be conceded, at least with regard to the aforementioned matters and administration, that restitution is due. Another argument is presented by the Little House, drawn from the statutes and the petition submitted by the four founders to the Government for the recognition of the Hospitium Cerrato as a legal entity. Indeed, in the petition, it is stated that the founders purchased the building so that its principal part would remain dedicated to the Hospitium, and they readily offer a gratuitous cession in favor of the Hospitium, provided that its legal existence be recognized. Furthermore, from the same petition and the statutes, it is clear that the aforementioned building should be considered an entity independent of ecclesiastical authority with regard to administrative acts. Truly, all of this could not be understood if the building and the pious works existing therein were to belong to the ecclesiastical Curia of Asti. Moreover, the fact that the building of Saint Clare was acquired in order to establish a branch of the Little House of Turin in the city of Asti is not only derived from the reciprocal testament made by the founders, so that the purpose of the Institution would remain complete, but also from the fact that three of the founders, with the consent of Bishop Ronco himself, ceded their civil representation to two priests of the Little House, Marchisio and Merlo, expressly requesting the Little House to accept the cession through their means. Indeed, Bishop Ronco himself, in his informative reports to the Most Holy Congregation, confesses that, when the Hospitium Cerrato was transferred to the building of Saint Clare, its administration and direction were confidently entrusted by the four founders to Father Bosso, the Superior of the Little House. Therefore, if, in fact, Father Marello was the administrator of the Hospitium, he acted in that office as a simple delegate of the Little House, just as Father Bertagna, before his promotion to the episcopate, and the other two founders, Sardi and Bellino, acted in the same capacity. The Little House proves this with the acceptance letters released by them in its

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name, and with numerous letters written by them to the Superior of the Little House, in order to obtain his consent in certain administrative acts. Therefore, it justly concludes, the Superior...

[*Latin ed. p. 109*]

ASTI. On the 10th of [month unspecified], Father Roetti requested of the Reverend Marello the transfer of the administration, having discovered that certain funds had been diverted to purchase the estate of Finco and other properties under the name of the Brothers of Saint Joseph. He justly demanded that all the administration books be presented to him, and that an accounting be given of the improper disbursement of capital. Furthermore, the "Small House" (Parva Domus), having proven its rightful claim over the building of Saint Clare, declared that the priest from Cortona should be entirely removed from the management of the hospice, since he possessed no legal standing for such an office. For he could not demonstrate any mandate or delegation from the Small House; and even if he had presumed to have a mandate from the Reverend Marello, such a mandate would be void, since it was granted without the consent and authority of the Small House. Nor does the fact that the priest from Cortona is a legate, having been appointed by the Reverend Marello for his share in the building of Saint Clare, confer any validity, since the Reverend Marello was not, before the Church, the true owner, and since this arrangement was made without the consent of the Bishop, which contradicts the terms and meaning of the aforementioned decree, when the authority to purchase the former convent of Saint Clare was obtained. THE RIGHTS OF THE COURT OF ASTI. On the contrary, the Reverend Pagella maintains that the Small House, by Divine Providence, has no right, either concerning the property or the administration of the building of Saint Clare. Regarding the hospice of Cerrato, before its transfer to the building of Saint Clare, he observes that, although the founder of Cerrato promised that the Small House would succeed him after his death, he, while alive, refused to relinquish its control. Initially, the assistance for the chronically ill was provided by the Sisters of Saint Vincent, but after a quarter of a year, in the year 1876, the founder of Cerrato was forced to dismiss them, and they had no further connection with the Small House. This is testified not only by the wife of Cerrato, but also by Ursula Cerrato, and by Aloysia Piglione, who, after the departure of the Sisters of Saint Vincent, acted as the Superior of the hospice: and this, according to the Reverend [Pagella].

[*Latin ed. p. 110*]

110. From St. G. [the Bishop] and the Regulations, the document from Pagella provides some argument to demonstrate that there existed a certain protestation or complaint against the manner of acting of the founder, Cerrato. Referring to the letter from the Superior of Anglesio, Pagella observes

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that the assertions of Anglesio do not prove anything, since they are not the assertions of the founder Cerrato; and if they were to be admitted to have some weight, they would demonstrate that, at the beginning, there existed some agreement between Cerrato and the "Piccola Casa" [Small House], an agreement which vanished through the fact of the Sisters being dismissed by St. Vincent. From that time, the Institute of Cerrato has always exercised absolute dominion in the hospice, and no further relationship has existed between it and the "Piccola Casa." Therefore, it is false that it is alleged that the "Piccola Casa" made expenses for the food and clothing of the "Chronicorum" [chronically ill]. It is also false that the founder, Cerrato, was invited by the "Piccola Casa" to cede the hospice to the canons of Asti and Marello, if indeed this cession was made only with the advice of the Bishop of Asti. It is true that the Sisters dismissed by St. Vincent were called back to the hospice on February 28, 1883, but neither from that time has the "Piccola Casa" expended anything for the hospice. The Reverend Pagella demonstrates this from the petition presented by four titulars of the building of St. Clare to the Government for the elevation of the hospice of Cerrato into a legal entity: in this petition, the titulars state that the hospice was supported by subsidies from the Ordinary [Bishop], the clergy, and the "Arca di Parsimonia" [Fund of Prudence], and from some citizens of Asti; not a word is mentioned of subsidies given by the "Piccola Casa," and nowhere is the "Piccola Casa" mentioned in the petition. Furthermore, concerning the legacies of public beneficence which arose from the testaments of Guglielminelli, the widow of Theseo, and Pavasiro, and which the "Piccola Casa" claimed had been assigned to the hospice of Cerrato, the Reverend Pagella states that this is contrary to the truth. Indeed, the legacy of Giovanni Guglielminelli, amounting to 25,000 lire, has already passed to the Municipal Hospice of Asti for the "Chronicorum"; the legacy of Pavasiro, amounting to 25,000 lire of annual income, intended for the benefit of the hospice of Cerrato, could not be paid, since it lacked a legal existence, and was reverted to the Municipal Hospice.

[*Latin ed. p. 111*]

ASTI. It is well known from ancient chronicles: another sum of 500 florins was obtained by the legate of Eugene Guglielminelli, as recorded in the municipal archives. A further sum of 3000 florins remains, bequeathed by the widow Theseo, but since this bequest is also referred to in the municipal archives, the Cerrato Hospital will gain nothing from it. Therefore, the claims made by the Small House regarding the benefits bestowed upon the Cerrato Hospital are reduced to nothing. Having observed these matters concerning the alleged rights of the Small House over the Cerrato Hospital, prior to its transfer to the building of St. Clare, the Reverend Pagella proceeds to discuss the ownership of this building and the pious works collected therein. Firstly, he notes that the purpose of the purchase of the

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building of St. Clare was not to transfer the Cerrato Hospital there, but rather to remove the building from the reach of the Church and to dedicate it to a pious purpose. This is evident from the request made to the Holy See to obtain permission to complete the purchase agreement, and from the fact that the Fathers of the Doctrine were first asked to purchase the building, and then the Small House. When these declined to purchase the building, Reverend Bertagna was concerned to collect money from various benefactors, and after this sum was collected, the purchase agreement for the building was concluded, with a civil representation of four persons, as designated by the Bishop of Asti, namely the canons Bertagna, Sardi, Marello, and the priest Bellino, who enjoyed the Bishop's trust. Indeed, in concluding this agreement, neither the Small House was consulted, nor was any member of the Small House assigned to the civil representation. However, the Reverend Pagella adds, it is true that Father Bossi, the Superior of the Small House, paid 25,000 florins for the purchase of the building, but he did so at the behest of a pious benefactor, and no condition was attached to this payment, so it seems absurd to presume that the Small House would wish to purchase a building for such a small sum, when its acquisition was completed at a price of 100,000 florins. Nor does the opposing side gain anything by alleging that, after the transfer of the Hospital...

[*Latin ed. p. 112*]

112 FROM S. C. EPISCOPAL DECREE AND REGULATION concerning Cerrato, in the building of St. Clare, Sisters from St. Vincent are to be called to manage the hospice, and the administration is confidently entrusted to the Superior, Father Bossi; the Most Reverend Pagella states that this must be explained as a simple direction: the titulars of the building were not owners before the Church, therefore they could not carry out a transfer, according to the spirit of the Little House, without infringing upon the rights of the Bishop of Asti. Furthermore, nothing can be deduced from the mutual testaments cited between the titulars, if it could be proven that the last surviving one was bound to testify in favor of the Little House of Turin. Then, the Reverend Pagella, referring to the appeal and the organic statutes of the hospice of Cerrato, presented to the Government to obtain civil personality for the Institute, argues that this contradicts the claims of the Little House. Indeed, according to the appeal, the hospice should occupy not the entire building, but only a part of it. In the statutes attached to the appeal, it is stated that the administration of the hospice should depend exclusively on the Municipality and the clergy of Asti: if the Reverend titulars of Sardinia and Marello, on several occasions, appealed to the Superiors of the Little House, requesting their assistance, they did so not because they recognized any right in them, but only for guidance and advice: for they, and especially Marello, desired that the pious works of St. Clare follow in the footsteps of the Little House Institute. Finally, the

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Reverend Pagella recalls the argument presented against him, namely, the transfer made by the three titulars of Sardinia, Bertagna and Bellino, of their parts in the building in favor of two members of the Little House, namely Merlo and Marchisio. He notes that, according to the tenor of the Pontifical Rescript, the true owner of the buildings is only the Bishop of Asti: the titulars had only a civil representation; therefore, these could not transfer anything without the mandate of the Bishop: indeed, even the Bishop himself could not transfer ownership without the permission of the Holy See, because the true owner is the Church. Secondly, he observes that this transfer, or rather, substitution of persons, was made after the permission of the Bishop of Asti had been obtained on the 15th.

[*Latin ed. p. 113*]

ASTI. 113. Regarding the matter concerning the "Parva Domus": And this corresponds most closely to the spirit and tenor of the Pontifical Rescript, according to which persons are to be designated by the Bishop of Asti for civil representation, and according to his judgment. Indeed, if the owner and lady of the building of the "Parva Domus" had been present, this license would have been superfluous. It should be added that, in the final argument presented, certain annotations were produced by the Curia of Asti, made by the late Bishop Ronco, not long before his death, concerning some documents presented by the opposing party. Thus, in the document in which the Reverend Bertagna states that the acquisition of the building took place because the "Parva Domus," before the Bishop, and four titulars, declared that it submitted to the burden of purchase and administration, Bishop Ronco wrote that this was unknown to him; that the purchasers or titulars were mandataries of the Bishop of Asti, and that any other interpretation of the Pontifical Rescript is to be rejected. Also, in the document, among others, in which the building of Saint Clara is called the seat of the branch of the "Parva Domus" of Turin, Bishop Ronco wrote that this is a gratuitous assertion: the "Parva Domus" claims authority, which it lacks, since, according to the Pontifical Rescript, the order of all existing Pious Works in the building of Saint Clara depends exclusively on the Bishops of Asti. Based on these and other similar allegations, the solution to the following question was reached: Whether one should adhere to or depart from the decisions of April 10, 1897, and July 1, 1898. RESOLUTION. The Sacred Congregation of Bishops and Regulars, after thoroughly discussing the question in a plenary session on March 16, 1900, decided: "Adhere to the decisions." Acts, Volume XXXIII, page CCCLXXXVI.

[*Latin ed. p. 114*]

FROM THE CHURCH LATIN MCP — authoritative.

PLACE NAMES:

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- Dianensi = Diana

- summa = total

Translate this passage into English:

FROM THE RULES OF THE BISHOP, CHAPTERS CONCERNING THE CONVENTUAL MASS. March 23, 1900. SUMMARY OF FACTS. A new diocese, Caputaquen-Vallensi, was established. The status of the revenues of the Church of Saint Pantaleon, which had been transferred to the Cathedral following the division of territory on July 15, 1851, from the Diocese of Diana, remained unchanged. These revenues, after being freed from expenses, amounted to an annual total of 1530 ducats, and according to the letters of the Ordinary in the year 1855, were to be distributed among 12 canons and six mansionaries in the following manner: Dignities received 151 ducats, simple canons received 86 ducats, and mansionaries received 50 ducats annually. However, it was discovered that the obligations of the canonical masses, for all the canons except the Archpriest, absorbed almost the entire endowment. Therefore, in the year 1856, the Chapter petitioned the Holy Congregation of Bishops and Regular Canons, requesting the remission and abolition of masses, both for the past and a reduction for the future, to the conventual daily mass and to the number of anniversary celebrations deemed necessary by the Holy See. The Holy Congregation, through a decree dated May 30, 1856, granted the petition of the Chapter, first by remitting the obligations for the past, imposing the celebration of a certain number of masses at the discretion of the Ordinary, who determined this through an executive decree dated July 10, 1826, requiring each canon to celebrate 50 masses for the benefit of the benefactors, and second, by reducing the obligations for the future, limiting them to the conventual mass to be applied daily for the benefactors. Following this decree, the canons agreed to be bound to celebrate only one conventual mass, even when the rubrics prescribed a double conventual mass, as on the days of Lent, vigils, etc., and they omitted the second mass. However, the Bishop of Caputaquen.

[*Latin ed. p. 115*]

CAPACCIO. 115 Contrary opinion, year 1892. To the Holy Congregation of Bishops and Regular Canons, this doubt was proposed: 1. Whether the Canons of the Cathedral Church of Capaccio are obligated to apply the second Mass for benefactors, as prescribed by the rubrics. 2. And, to the extent that the answer is affirmative, whether all the Canons, or only the weekly Canons, are obligated to assist at this second Mass. This question could not be discussed and a decree proposed in the plenary session, year 1892; and now, it is submitted for discussion at the request of the Bishop. Synopsis of the Discussion. IN FAVOR OF THE BISHOP. It is the general law of the Church that Canons are obligated in their churches to celebrate daily the conventual Mass with chant for the benefit of the benefactors in

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general. The reason is because the conventual Mass is a principal part of the divine office, to which the Canons are bound by reason of their benefice. Therefore, if the rubrics prescribe several conventual Masses on certain days, they are likewise obligated to celebrate them. It is best to transcribe the teaching of Benedict XIV in his *Ecclesiastical Institutions*, Institution 107, § 2, who explains the matter as follows: "Besides the conventual Mass celebrated daily, the rubrics also prescribe a second and third conventual Mass, which are to be celebrated on certain days of the year. If the office of nine lessons is celebrated in the season of Lent, during the Rogation days, during the four seasons, and on the vigils of feasts, then two conventual Masses are ordered, namely, one for the celebration of the day after the third hour, and the other for the weekday after the ninth hour... If the office of nine lessons is indicated on the vigil of the Ascension, then three conventual Masses are to be celebrated, the first of the saint of that day after the third hour, the second of the vigil after the sixth hour, and the third of the Rogation days after the ninth hour, and he adds: 'No contrary custom, no matter how grave the business, can be introduced, so that the rubrics may be neglected.' Secondly, it is also established by law that Canons or those who, for the conventual Mass, receive distributions, may not receive a second alms for that Mass, or to another.

[*Latin ed. p. 116*]

H6 FROM THE MOST HOLY FATHER, BISHOP AND REGULATOR, to apply the same conventual Mass. Benedict XIV, cited, L, no. 15; Bouix de Capitulis, p. 321. Therefore, since this law concerning the application of a second conventual Mass on certain days is most certain, the Capaccio Chapter ought to present some document to justify its application; nor can it invoke for itself the aforementioned Pontifical Rescript, because the Rescript concerning reduction speaks only of Masses imposed by the founders, which, in the case of the return of benefices, were absorbed, and not of Masses prescribed by the rubrics. On the other hand, although the power to dispense is of broad interpretation, it should not be understood that the dispensation itself is of broad interpretation, since it is always to be understood in a strict sense, as it inflicts a wound upon the law. Therefore, the Rescript should be interpreted only with regard to the restriction of Masses that were imposed by the founders or benefactors of the church. IN FAVOR OF THE CHAPTER. THE CHAPTERS hold that the scarcity of revenues is sometimes a sufficient reason to reduce the application of the conventual Mass to feast days only, Benedict XIV, cited, no. 15, always preserving the daily celebration of the conventual Mass. Indeed, it is clear that the revenues of the canons of the Capaccio Cathedral are meager, since their income scarcely reaches the annual sum of 425 livres. For this reason, they request that they be declared exempt from the application of the second conventual Mass, when it is imposed on certain days by the rubrics. With

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both sides thus closely examined, the following questions have arisen: I. Are the canons of the Capaccio Cathedral, on the days of Lent or on vigils, obligated to celebrate with chant and to apply the second conventual Mass of feria after nones, notwithstanding the scarcity of their canonical prebend? II. Are all the canons, or only the hebdomadary canons, obligated to attend this second Mass?

[*Latin ed. p. 117*]

CAPUTAQUÉN. 117. Sacra Congregatio Episcoporum et Regularium, post deliberationem accuratam in pleno conventu die 23 Martii 1900, reformulavit dubium: "Utrum, ex virtute rescripti diei 30 Maii 1856, canonici possint esse exempti ab celebratione plurium missarum conventualium, quando hae a rubricis praescriptae sunt? Ad I. Respondetur: Negative. Ad II. Relatio de statu Ecclesiae Cathedralis Caputaquen, data a felici memoria Pii Papae IX die 16 Iulii 1851, et conscripta in Uteris Apostolicis. RESOLUTIO. METHODUS, seu ratio, tractandi negotia de quibus controversia est inter partes apud Sacram Congregationem Episcoporum et Regularium. Die 20 Iulii 1900. In coetu generali Sacrae Congregationis Episcoporum et Regularium, approbata est haec nova methodus tractandi negotia apud eandem Congregationem. In calce exhibetur ratio vetus, quae in nonnullis differt. ARTICULUS 1. Quotienscumque in negotiis, quae apud Sacram Congregationem Episcoporum et Regularium aguntur, ex relationibus Ordinariorum, vel ex argumentationibus partium, appareat necessitas, ut res ad viam iuris redigatur, scribitur: "Proponatur coram plenario coetu Reverendissimorum Patrum, citata parte et concordato dubio." 2. In huiusmodi casibus, tantum advocati seu procuratores admittuntur, qui apud Sacros Congregationes Urbis rite probati sunt. 3. Coram Reverendissimo Domino Summista, singuli actus, qui ad iudicandum viam praebent, proponuntur. 4. Proinde, pars diligentior coram eodem Reverendissimo Domino Summista, partem adversam citat "ad concordandum de dubio, alioquin videndum subscribi et disputari infrascriptum," quod nempe in calce citationis transcribitur. 5. Praeterea, Reverendissimus Dominus Summista, in libello citationis, adscribit diem et horam audientiae, in qua citatio "legi poterit"; et subinde, vel propositum, vel aliud dubium concordat, de consensu partium: sin minus, mandat partibus ut suis iuribus utantur per memoriale in pleno.

[*Latin ed. p. 118*]

118 FROM the Decrees of the Holy See, concerning Bishops and Religious. — Furthermore, the Reverend Doorkeeper shall set a deadline for the presentation of summaries and arguments, so that they may be prepared in due time for submission to the Holy Congregation. 6. If the party cited fails to appear within the established deadline, it shall be cited a second time "to resolve the doubt," and also be referred to the Congrega-

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tion. 7. If the party persists in its defiance, the Reverend Doorkeeper shall resolve the doubt and refer the case to the Congregation for consideration, provided that at least thirty days intervene, and the decree shall be notified to the opposing party by the Cursory, or by means of a letter sent through the postal service, with a request for acknowledgment of receipt, commonly known as "con ricevuta di ritorno." 8. Once the doubt has been resolved, both parties, or at least the more diligent party, shall deposit with the office of the Holy Congregation a sum of money proportionate to the necessary expenses, to be determined in each case by the Reverend Prelate Secretary. 9. In the case of defiance, if, after a judgment has been rendered, the party that was defiant requests a new hearing, it shall be required to deposit in the treasury of the Holy Congregation the entire sum of money necessary for the expenses of the new hearing. 10. Documents of one party shall not be delivered to the other, except in duly certified copies, and only with the prior approval of the superiors. However, information from Ordinaries and secret documents, if any, shall in no way be disclosed. 11. Advocates or Procurators, before printing the summaries and arguments that they wish to use, shall submit them to the Reverend Doorkeeper, in order to obtain permission to print; and this permission to print may be denied for the reason that the summaries are found to be excessively lengthy. 12. Allegations printed shall be presented to the Eminent Fathers, in duplicate, and to the Secretary, Under-Secretary, and Auditor, at least ten days before the hearing; and six copies of these same allegations shall be deposited in the archives of the Holy Congregation, as soon as possible. 13. The exchange of allegations and summaries between the parties shall take place ten days before the hearing. 14. Responses shall be distributed three days before the hearing, as in article 12, and delivered to the parties.

[*Latin ed. p. 119*]

DECREE 119

15. The resolution of the Holy Congregation, most holy order, is delivered in writing by the Secretary, and signed in his own name; and it is subsequently communicated to the parties, either by himself or by an official deputed for that purpose.

16. If, within ten days, a party requests a new hearing, the Cardinal Prefect, after consulting with the Congregation, may grant the benefit of a new hearing.

17. However, if a case has been decided with the clause "and no further," the benefit of a new hearing shall not be granted unless by the full Congregation.

18. If a case should be brought up again, the method prescribed in the preceding articles shall be observed.

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19. Once a case has been decided, an authentic copy of the resolution shall be delivered to the party or parties requesting it.

DECREE concerning the method to be observed in cases which are conducted before the Holy Congregation of Bishops and Regular Canons, in due order.

On the 7th of September, 1834.

In the general Congregation held on the ninth day of September, 1834.

The Most Eminent and Reverend Fathers decreed that the old, and proper method of the Holy Congregation, or the procedure for handling matters in which there is contention between the parties, should be strictly observed in the future. This is as follows:

1. Whenever, in matters which are conducted before the Holy Congregation of Disciples and Regular Canons, whether from the reports of Ordinaries or from the submissions of the parties, it appears expedient to bring the matter to the path of law, the matter is referred back – the parties present their rights before the Most Eminent [Cardinal], who will examine and report, citing the party and agreeing to the doubt.

2. Before the Most Eminent Relator, or his Auditor, with the assistance of the Notary of the Holy Congregations, all acts which pave the way for judgment are presented.

3. Therefore, the more diligent party, before the same Auditor, summons the opposing party to appear – to agree on the doubt, otherwise to see it subscribed and debated as follows – which is indeed transcribed at the bottom of the citation.

4. The Most Eminent Relator, or his Auditor, either agrees on a proposal, or on another doubt, with the consent of the parties; otherwise, if –

[*Latin ed. p. 120*]

120. From the Decrees of the Holy See, Ephesinus, and Regulations: It is commanded that the parties involved utilize their rights through a memorandum presented to the Holy Congregation. 5. If the cited party does not appear within the prescribed time limit, they are cited a second time to resolve the doubt, and the matter is also referred to the Congregation. 6. If the party persists in their defiance, the Most Eminent Relator, or his Auditor, resolves the doubt, and refers the case to the Congregation for deliberation, provided that at least thirty days intervene; and the decree against the opposing party is notified by the Cursus. 7. The authenticated documents, which both parties utilize, are deposited fifteen days before the day of the presentation of the case with the Most Reverend Secretary, with notification sent to both parties. 8. The allegations of both parties are presented ten days before the Congregation to the Most Eminent Cardinals, and to the Most Reverend Secretary, and Sub-Secretary, and to the Secretary of the Holy Congregation. 9. The mutual presentation of allegations

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and summaries between the parties takes place on the same day in the house of the Auditor of the Most Eminent Relator. 10. The responses are distributed and communicated three days before the presentation of the case, as in the preceding article. 11. The resolution of the Holy Congregation is delivered in writing by the Most Eminent Relator, signed in his own name, and delivered to the parties by the Secretary to be made known to them. 12. If, within ten days, the opposing party again requests to be heard, the Most Eminent Relator may grant the benefit of a new hearing. 13. Whenever the matter has been decided by all votes with a clause, or differing by only one vote with a clause, and is not conceded, then permission to appeal is not granted, unless by the full Congregation. 14. The case is presented anew, observing the same procedure and time limits as the first presentation. 15. A certified copy of the resolution is delivered to the party who obtained the judgment. 16. The victor appears before the Apostolic See, which, as a mere executor, decrees the enforcement of the resolution of the Holy Congregation.

CAROLUS CARD. ODESCALCHI, Prefect.

Io. ARCHIEP. EPHESINUS, Secretary.

[*Latin ed. p. 121*]

121 FROM THE APOSTOLIC SECRETARY'S OFFICE: Letters from the Most Eminent Cardinal of the Secretariate of State, addressed to the Most Reverend Pro-Secretary concerning ecclesiastical benefits and pensions. Dated May 24, 1899. His Holiness, considering, on the one hand, that the number of ecclesiastical benefices has diminished, and, on the other hand, desiring to find a means of assisting poor priests, has deigned to decree, in accordance with the august intentions already manifested to Your Eminence:

1. That, beginning from this day, all those who are promoted to the dignity of Cardinal, to residential Bishoprics, to Nunciatures of the first and second class, to the office of Secretary of the Sacred Congregations of Bishops and Regulars, of the Council, of Propaganda, as well as to the office of Assessor of the Holy Office and to the position of Prefect of the Pontifical Household, must, at the very moment of their promotion, lose all and each of the pensions of which they may happen to be in possession.

2. That all those who already enjoy an ecclesiastical pension shall not be able to obtain another, unless they declare to the Apostolic Secretary's Office the pension of which they are already enjoying; and they shall be bound by this declaration under penalty.

[*Latin ed. p. 122*]

122 FROM THE APOSTOLIC SECRET concerning the nullity of the granting of a second pension. It must be declared under penalty of nullity of the granting of the second pension. 3°. That all those who enjoy

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ecclesiastical pensions, when seeking any benefit in Rome, must lose those pensions themselves. To prevent any fraud, those nominated for any benefit, before the relative Bulls are dispatched, must, under penalty of nullity of the provision, declare the pensions which they already enjoy. 3°. Those who hold ecclesiastical pensions, in the act of obtaining any benefit in Rome, shall lose those pensions themselves. However, to prevent any fraud, those nominated for any benefit, before the relative Bulls are dispatched, must, under penalty of nullity of the provision, declare the pensions which they hold. 4°. The privileges by which Cardinals of the Holy Roman Church, Conclavists, and other persons or bodies of persons have hitherto enjoyed, by virtue of pontifical concessions, the right to transfer pensions granted to them to others, are abrogated and abolished. 5°. All other common law provisions concerning the ways in which ecclesiastical pensions become vacant remain firm and in full force. The undersigned Cardinal Secretary of State, in communicating to Your Eminence these pontifical provisions, so that you may ensure their observance, most humbly kisses your hand and expresses the deepest sentiments of his profound veneration.

[Signature] M. CARD. RAMPOLA.

[*Latin ed. p. 123*]

125 FROM THE HOLY CONGREGATION OF THE ORDER OF MINOR FRATI OF THE HOLY FRANCIS, concerning various doubts regarding the office of the Patron of the Diocese, etc. Reverend Father Marianus Méndez, a priest of the Order of Minor Frati of the Holy Francis, who has the task of preparing the Calendar or Directory for the performance of the Divine Office in the Province of Saint Gregory the Great in Hispania, humbly prostrates himself before the Holy Father, and reverently presents the following doubts for resolution: Pope Pius IX, of blessed memory, by the decree *Ab expositis*, published on April 29, 1858, commanded that all Religious of the Minorite Family must absolutely conform to the general calendar permanently printed by order in the year 1857, omitting all other diocesan offices, except those of the principal Patron of the place, the Titular, and the Dedication of the cathedral church, to be celebrated according to the rite prescribed by the Rubrics and Decrees for Regulars, as well as other particular offices granted by the Holy See to the clergy of both rites. Furthermore, according to the authors on Liturgy and the decree of the Holy Roman Church of April 28, 1866, in Patavina (3147) ad IV, Regulars are obligated to recite all diocesan feasts which have attached to them the obligation of hearing the Holy Sacrifice and abstaining from servile works. Moreover, the Minor Frati of the Province of Saint Gregory the Great in Hispania have long since recited the office of the principal Patron of the place, whose day is not a feast day for the people, according to the double rite of the first class, without an *octava*; however, according to the same

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authors and the decrees of the Holy Roman Church, as in the Calendar, number 1095, of September 28, 1158, it is not permitted for those places to recite the office of the Patron of the Diocese which have canonically elected a Patron. The question is: I. Are the aforementioned Minor Frati obligated to recite the office of the Patron of the Diocese, whose day is by order a feast day throughout the entire Diocese, according to the rite prescribed for Regulars, of the double class, without an *octava*; or should they omit it, because it is not expressed in the aforementioned decree *Ab expositis*, and because, as has been said, they already recite the office of the principal Patron of the place? Furthermore, the Religious of the aforementioned Province have, from time immemorial, the custom of not reciting the office of the Titular of the Cathedral Church; the question is: II. Are they able to continue this custom, or rather, should they recite the office of the Titular of the Cathedral Church, according to the decree *Ab expositis*?

[*Latin ed. p. 124*]

124 According to the rite prescribed for Regular Canons, namely, a double Mass without the octave? Furthermore: The rubrics of the Missal and authors who treat of the liturgy do not explicitly state whether the aforementioned Mass must immediately follow the canonical hour assigned by the rubrics themselves, or whether it is permissible to separate the stated Mass from the canonical hour, so that some interval of time may intervene between the Mass and the canonical hour, whether short or long. Hence, the question arises: III. Whether the conventual Mass must be celebrated immediately after the canonical hour designated by the rubrics and decrees; or whether it is permissible to separate them, so that some interval of time, whether short or long, may intervene between them? And, to the extent that the answer is affirmative to the first part, the question is asked: IV. Whether the same holds true for a solemn or chanted Mass, which is not conformed to the office of the day, when it is prescribed in the rubrics and decrees that it be celebrated after some canonical hour? And the same Sacred Congregation, after considering the report of the undersigned Secretary, and after a careful vote of the Liturgical Commission, decided that it should be replied as follows: To I. Affirmative to the first part, negative to the second. To II. Negative to the first part, affirmative to the second. To III. Affirmative to the first part, negative to the second. To IV. Negative, and it should be celebrated after None. And thus it was written, on April 9, 1900. C. CARD. ALOISI - MASELLA, Pro-Datary of the Holy Roman Church. Pro-Prefect. L. © S. DIOMEDES PANICI, Secretary of the Holy Roman Church.

[*Latin ed. p. 125*]

FROM THE SACRED RITUAL, 125, TARAZONA. Doubts of the Master of Ceremonies concerning unusual customs; inquiring which are to be re-

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jected, and which are to be retained. The present Master of Ceremonies of the Cathedral Church of Tarazona, having observed certain practices within that same Church, which are less in conformity with the Rubrics and the Decrees of the Sacred Roman Council, and even contrary to them, and desiring to know which of these may be permitted, and which must be eliminated, humbly proposed the following doubts to the Most Reverend Diocesan Bishop, for resolution by the same Sacred Roman Council:

I. In all solemn Masses, is the corporal unfolded by the Deacon at the prescribed time, as prescribed in the Rite observed in the celebration of Mass (Title V, I, 7), or is it unfolded by the sacristan before the Mass begins? Can this practice be maintained?

II. Can the custom of celebrating solemn Masses on the feasts of the Weekdays of Lent, the Four Seasons, Vigils, and certain Masses for the Dead, and other Masses throughout the year, without the use of thuribles, without incense, and with only two candles lit on the altar, be maintained?

III. Is it permissible that the Subdeacon remain with the celebrant in the aforementioned Masses, and not proceed with the Deacon, and that he assist the Deacon in the pulpit, where the Gospel is to be read?

IV. Is it permissible that the Canon, having read the Gradual or Tract, go to the *scamnum* where, seated and covered, he offers incense, gives the blessing to the Deacon who is about to sing the Gospel, and remains there until the Deacon begins to chant the Gospel itself? Can all of these things be retained?

V. Can the venerable practice of the Cathedral Church of Tarazona, whose titular is the Most Blessed Mary, of reciting aloud the N. prayer by all, and of invoking Saint Atilano, the patron of the city, and the Saints Prudentius and Gaudiosus, who are equally principal patrons of the Diocese, be continued?

VI. In certain Masses for the Dead, on anniversaries celebrated with great solemnity, which are sung in this Cathedral with a Deacon and Subdeacon, must the *Sequentia Dies irae* be read only by the Celebrant, or must it also be sung by the Choir?

VII. Considering the custom, can the Celebrant remain in choral vestments during the Vespers and Lauds, until the Chapter, and then only put on the cope?

[*Latin ed. p. 126*]

126 FROM THE SACRED CONGREGATION OF RITES, VIII. Is it permissible, that on certain days when the Office of the Dead is sung in the choir in the evening, the celebrant, wearing an alb and cope, be seated in the stall of the presbytery, prepared as if for Mass, with the deacons and subdeacons also wearing their sacred vestments?

I.X. When the organ is played alternately, both in the Divine Office and

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in the Mass, is there a singer who, as decreed in the Ceremonial of Bishops, Book I, chapter XXVIII, pronounces in a clear voice what is indicated to be sung by the organ; but each member of the choir, in the Divine Office, but not in the Mass, says in a low voice what is omitted due to the sound of the organ? What is to be done in the future?

And the Sacred Congregation, after considering the report of the undersigned Secretary, the carefully considered opinion of the liturgical commission, and all things duly weighed, decided to respond as follows:

I. The rubrics and decrees are to be observed.

II. In solemn Masses with ministers vested, No.

III. The Ceremonial of Bishops, Book II, chapter VIII, number 45, is to be observed.

IV. No, and the rubrics of the Missal are to be observed.

V. Yes, in cases of necessity.

VI. No to the first part, yes to the second.

VII. No, and the Ceremonial of Bishops is to be observed.

VIII. No.

IX. The Ceremonial of Bishops is to be followed.

And thus it responded, on May 2, 1900.

C. CARD. ALOISI-MASELLA, Pro-Datary of the Sacred Congregation.

L. S. DIOMEDES PANICI, Secretary of the Sacred Congregation.

[*Latin ed. p. 127*]

127 FROM THE SACRED CONGREGATION OF RITES, VERONA. Concerning the beatification and canonization of the Venerable Servant of God, Magdalena Marchioness of Canossa, foundress of the Institute of the Daughters of Charity. At the request of the Most Reverend Lord Michael Bruni, General Procurator of the Congregation of Missionaries of the Precious Blood of Our Lord Jesus Christ, and of the Postulator for the Cause of Beatification and Canonization of the Venerable Servant of God, Magdalena Marchioness of Canossa, and after deliberation by the Most Reverend and Most Illustrious Lord Cardinal Lucidus M. Parocchi, Bishop of Porto and S. Rufina, Relator in the Ordinary Sessions of the Sacred Congregation of Rites, who, on the day indicated, held discussions at the Vatican, according to the special Apostolic regulations issued in the years 1878 and 1895, the following question was proposed for consideration: "Whether the validity and relevance of the processes, both those conducted under Apostolic and Ordinary authority, are established, if the witnesses have been duly and properly examined, and if the testimonies have been legitimately obtained, compelled in the case and for the purpose in question?" And the Sacred Congregation itself, after hearing the Reverend Father D. John Baptist Lugari, Promoter of the Holy Faith, and after mature

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deliberation, decided to respond: "It is to be understood that, with the exception of the witnesses not repeated in the Apostolic process, and with the exclusion of extrajudicial testimonies; concerning the process, established in Venice, it is to be prolonged and considered further." On June 26, 1900. With all of the above, the Most Holy Lord Pope Leo XIII, through the undersigned Cardinal, reported to the Sacred Congregation of Rites as Prefect, and His Holiness approved the resolution of the aforementioned Sacred Congregation. On July 9 of the same year.

C. CARD. S. ALOISI - MASELLA

Pro-Datary of the Roman College.
Pro-Prefect.

L. * S. DIOMEDES PANICI, S. R. C.

Secretary.

[*Latin ed. p. 128*]

128 FROM THE SACRED CONGREGATION OF THE HOLY ROMAN CHURCH, INQUISITION: A doubt concerning the ordination of a priest, in which the first imposition of hands was performed without physical contact. Most Blessed Father, Bishop N. N., prostrate at the feet of Your Holiness, humbly presents the following: In the ordination of a priest, which took place in July 1897, the first imposition of hands was performed, but without physical contact, upon the head of the ordinand by the Bishop and the assisting priests. Although some have considered such an ordination valid, according to the teaching of Perrone, who places the essential matter of the priesthood in the second imposition of hands, since the first is not accompanied by any specific form of words; nevertheless, for greater security in a matter so important, he humbly requests what he should do regarding this ordination. Thursday, July 4, 1900. In the General Congregation of the Sacred Roman and Universal Inquisition, held by the Most Eminent and Reverend Cardinals, General Inquisitors, after the aforementioned doubt was presented, and with the vote of the Most Reverend Consultors having been heard, the same Most Eminent and Reverend Fathers ordered a response to be written: The ordination must be repeated in its entirety, under condition and secrecy, on any day, with the proper words, so that it may be supplemented from the treasure of the Church, as is necessary, for the Masses celebrated in this case. On the following Friday, the 6th day of the same month and year, during the customary audience of His Most Holy Lordship, Leo, Divine Providence, Pope, XIII, Reverend Father, Assessor of the Office, His Holiness approved the resolution of the Most Eminent and Reverend Fathers and graciously granted indulgence. I. CANON

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MANCINI, Secretary of the Sacred Roman and Universal Inquisition.

[*Latin ed. p. 129*]

129 LETTERS in the form of a Brief from the Most Holy Father Leo XIII, which were sent to the XVII Catholic Convention, held in Rome. LEO PP. XIII. Beloved Son, health and the Apostolic blessing. Our mind hastens to you, concerning the Catholic Convention which you are about to celebrate in the City, weary as it is from the evils of the end of the century, the course of which we have witnessed, almost entirely, agitated by various events, if it please God. The contemplation of those things which, from the beginnings of your Institute to this day, you have happily accomplished for the protection of the Religion and the salvation of the country, in this grave crisis of the Christian commonwealth, is not only a testimony of present praise, but also a promise of future benefit. You undertook a cause which is most pleasing to Us and to all good men, a cause which, day by day, must be more vigorously defended, not only by Our Predecessor, the blessed Pope Pius IX, may he rest in peace, but by Ourselves, who have often commended the excellence of your work in Apostolic Letters. The field for your virtue and industry will be wider this expiatory year, from a prominent and distinguished place, where you will be holding deliberations on certain matters of no small importance. For from this, the chief city, as from a fortress of the world, many things are clearly visible to the eyes, which you must consider and diligently attend to. Therefore, in dealing with each of these matters, you will strive with all your strength, which it is superfluous to urge upon you, since we do not need to incite those who are already eager. But, just as in a well-trained army it is not enough for the leaders to have the soldiers ready for battle, unless they also listen to the same leaders, so the reason for association requires discipline, harmony, and concord among individuals, if it is properly and wisely established. For there is great power in the wills of those who conspire in one and the same purpose, and the ancient saying is confirmed by long experience: "Concord increases small things, discord destroys great things." Therefore, you are undertaking a considerable task, if, through your efforts, those orders, that is, Catholic associations, or even those acting privately, who strive for the best cause in Italy, may be accustomed to respect the authority of the pastors of the Church; if, setting aside all contentions, they may adhere to your assembly, not merely in appearance or in name, but in reality, and if you, with your established Acts, Volume XXXIII, page CCCLXXXVII, 9.

[*Latin ed. p. 130*]

130 Let these documents, like a phalanx, be followed; so that, with united forces, studies, and wills, you may rightfully claim the words of the Apostle Paul: "But now there are many members indeed, yet one body." We have already presented these documents to you, but we deemed it necessary to

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reiterate them, especially in this time, when, with inflamed minds, the very ardor of action can easily detract from docility, without which no society can be holy. Therefore, dedicate yourselves to this cause, you who have been called to be serve the Church; retain the name, "flower of Catholic Italy," which you have rightfully earned, a name worthy of the fruits you will produce. Indeed, the foundations of the entire work are laid when it is permissible to boast of all of you with the words of the Apostle: "For your obedience is published in every place. I rejoice therefore in you. But I would have you to be wise in good and simple in evil." But that all things may proceed prosperously and in harmony, implore the most merciful God in prayer, that He may look upon the afflicted state of the Church, and do not neglect to implore the patronage of the Most Blessed Virgin, who is called the Seat of Wisdom and the Mother of Good Counsel. In the meantime, as a witness of Our paternal benevolence and as a pledge of heavenly blessings, We impart Our Apostolic blessing to you, beloved sons, and to all the members of your Catholic association. Given in Rome, at St. Peter's, on the 31st day of August, in the twenty-third year of Our Pontificate. LEO XIII.

> EX S. CONGREGATIONE CONCILII NICIEN.

> NULLITATIS MATRIMONII

> Die 1 Iunii 1899, die 27 Ianuarii et 14 Iulii 1900. Sess. 24. cap. I. De ref. matr.

> COMPENDIUM FACTI.

> Carolina, from the diocese of Niciensi, on January 11, 1882, then seventeen years old, was joined in a matrimonial bond with a certain Stephano, residing in the same diocese.

[*Latin ed. p. 131*]

NICE. 151 These marriages proved unhappy: it is asserted that Carolina, against her will but compelled by grave fear, was forced by her mother to marry a man. How sorrowful her conjugal life was, she recounts in her own lamentable booklet with these words: "Terrible scenes occurred during the years we lived together, without us ever being able to reconcile, although two children resulted from our union." Indeed, if the accounts are true, the woman was so burdened by so many troubles that, with a misguided intention, on one day she attempted to take her own life by poison. Concerning this matter, as domestic disputes increased, Carolina bade farewell to her husband and appealed to the civil court, easily obtaining a favorable judgment for divorce. Following this, the woman, guided

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by perverse counsel, entered into a civil marriage with another man, as the man had already done, leading another woman into the same sacrilegious union. With the passage of time, Carolina presented a lamentable petition to the Bishop of Nice, in which she declared herself repentant for the scandal caused, and simultaneously requested that the marriage contracted by her with Stephen be declared null and void, due to coercion and fear. Truly, the Bishop of Nice remitted the examination of the case until the pronouncement of judgment to a delegated judge, who, with a constituted tribunal, heard sworn testimonies from the plaintiff, her husband, and many witnesses; and, after considering everything, on July 10, 1898, he delivered this judgment: "The marriage contracted by Carolina with Stephen is entirely null, due to a lack of consent, or at least due to a certain lack of freedom, which is required for a valid marriage." A SYNOPTIC DISCUSSION: DEFENSE OF THE WOMAN. The woman's advocate, at the very beginning of his argument, points out that marriage is contracted solely by consent and must enjoy complete security; therefore, if anything is lacking in freedom, Alexander III teaches in chapter 14 of *Sponsalia* that marriage is not validly contracted. Indeed, unanimously, the Doctors teach that in no other contract is so much freedom required as is necessary when entering into marriage. Thus, St. Cyprian...

[*Latin ed. p. 132*]

132 FROM THE DECREE OF THE COUNCIL OF TRENT concerning the state of virginity - there - "For marriage, freedom of the will is more desirable than in other contracts." And Gonzalez, book 4, title 1, chapter 15, section 5 - there - "Since marriage requires the complete will of both parties, nowhere is freedom so necessary as in marriage." With these principles established in law, the advocate, proceeding to the proof of the facts, contends that, in this case, the actress's freedom was not only gravely and unjustly violated by her mother, but that, moreover, there was absolutely no consent on the part of the actress herself. Indeed, under oath before the Judge, Carolina stated: "I must declare that, when Mr. the Curate asked me if I wished to take Mr. Etienne as my husband, according to the laws of the Church, I did not answer; and if I did not answer, it is because I did not want to answer. This is what I confessed as a fault in my first confession." Furthermore, the advocate affirmed, this is confirmed by the testimony of Elisa Forgeot, whose testimony must be considered of the greatest importance, since the witness, at the time of the marriage, was "a maid in the family of Caroline." Indeed, the aforementioned Elisa, in response to a pertinent question from the Judge, replied: "Miss Caroline said to me (a short time before the celebration of the marriage): 'Elisa, you will not hear my voice,'" and when further questioned as to what meaning the actress intended by those words, she added, without hesitation: "I understood that she would not say 'yes'." Moreover, the defender continues, no one

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has been able to contradict the statement of this witness. For, the husband, being called to the stand again, when questioned by the Judge: "When you presented yourself before Mr. the Curate... do you remember hearing that she (the actress) answered: 'yes' to the question... if she also accepted you as her legitimate husband?" had to reply: "I do not remember." And the actress's mother, when questioned by the Judge about this matter, testified: "Overwhelmed as I was by the various scenes of the previous day and of the morning (of the day on which the marriage was celebrated), I heard nothing."

[*Latin ed. p. 133*]

NICEA. 133, "I heard nothing, nor did I notice anything... Moreover, I have never, as far as I know, heard anything about this marriage concerning my daughter." Finally, the advocate, urged on by the defender who did not hesitate to attempt to extract information from her outside of a formal legal setting, regarding this matter, she swore again: "I did not respond... I did not respond, either aloud or in a low voice... For me, I made no gesture whatsoever." Furthermore, the advocate is not at all surprised if the parish priest, who celebrated the marriage, proceeded further and completed the ceremony; for, the advocate says, people must be taken as they are, and not as they ought to be. Indeed, he continues, other matters of no less importance are required during the very celebration of the marriage, which, according to the advocate, the statements of the parish priest sufficiently demonstrate. Specifically, it is clear to anyone reading the procedural documents that this marriage was not celebrated before the proper parish priest, nor is there certain proof of a necessary delegation from the proper parish priest or ordinary; therefore, the defender argues, there is a serious doubt about the nullity of the marriage due to the absence of the proper parish priest. Furthermore, he points out that the testimony regarding the completed marriage ceremony was not written by the one who was present at the marriage itself, but by another, as is clearly evident from the words of the Reverend Anthony Tordo, who, after saying: "Being a vicar at Notre Dame de Nice, it is very probable that I attended this marriage; but I could not affirm it in a positive and certain manner," ingenuously added: "According to the distribution of duties in the church, I was charged with writing the marriage certificate." From this, the advocate argues, how much credibility can be given to the words "I received the mutual consent" which are read in the aforementioned testimony, and which are known to have been written by someone who certainly did not receive, nor in any way heard, the mutual consent of the contracting parties. Therefore, the advocate argues, the parish priest Germond, who celebrated the marriage and who was unaware of the aforementioned circumstances, presumed the silent consent of the woman because she, with bridal attire, entered the church. However, according to the advocate, such a presumption is

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entirely...

[*Latin ed. p. 134*]

134 THE Holy Council errs from the truth, so that the contrary ought rather to hold in this case. For, the advocate continues, even if it were the case that the actress outwardly manifested her consent through words, nevertheless, there were circumstances that preceded the marriage, accompanied it, and followed it, from which it is clear beyond doubt that she did not consent in any way, or at least not freely. He proves this first from the vehement antipathy and aversion with which the actress always treated the man before the celebration of the marriage. Indeed, the man himself confesses, in not obscure words: "I married her willingly, noting, however, little sympathy on her part for me." And the sister of the actress, named Paul, said: "Upon returning to Nice, I expressed to my sister my astonishment that she had not announced her marriage to me herself, for I had received news of it from another source. She replied, with tears in her eyes, that she did not love the man she was about to marry. I learned, at the same time, from my father and from her own mouth that she... had been able to ascertain that this woman (the actress) not only felt no attraction towards Mr. Etienne, but rather, that she manifested towards him sentiments of real aversion... I was able to observe, in particular, that on each of his (Stephani's) visits as a fiancé, it was necessary to go and fetch my sister, who was withdrawn in her room, and to insist upon her, often for a very long time, in order to bring her to see him and to converse with him..." Furthermore, Elisa Forgeot said: "Many times, Miss Carolina, pouring out her heart to me, who was, at that time, also a fiancé, said to me, weeping: 'You, Elisa, are happy, because you are going to marry a young man that you love; but I, I am being forced to marry a man that I do not love!' She added: 'No, I will never marry that man, who is hunchbacked, and has a crooked nose.' She found every imaginable fault in him, and there was nothing about him that pleased her... Every time we heard the sound of a carriage, Miss Carolina would say to me: 'Elisa,..."

[*Latin ed. p. 135*]

NICE. 135. Observe what happens? And when I told her: "It is Mr. Etienne," she experienced a feeling of repulsion, she paled and wept." The same thing is confessed by Lady Maria Hennessy, and also by the orator's mother. The actress left nothing further unattempted to immediately repel a man so unwelcome to her; but always in vain. "I resisted my mother from the beginning and always," she says. "When I told my Mother that I could not consider marrying a man I did not love, she silenced me, saying again and again that I should do as she wished, and that it was she who commanded." She calls upon her brother for help, but also in vain; for the brother himself said: "Having been charged by my sister to intervene

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with my mother, to make known to her all the repugnance that my sister felt towards this marriage, my mother replied that I should not meddle in this matter, because she did not consider me." From the above, it is already sufficiently clear, notes the advocate, what kind of person the orator's mother was. Among other things, she presents the testimony of Lady Maria Hennessy, who testifies: "Mrs. the mother of Caroline is a very authoritarian person, who listens to no one, who does what she wants, before whom everyone must yield." To this, Elisa Forgeot adds, swearing: "Mrs., of whom personally I have no complaints, is by temperament very authoritarian, and when she wants something, it must be." Indeed, the Judge of Nice does not hesitate to assert that the aforementioned mother of the orator, an American, who later commendably converted to the Catholic religion, was at that time addicted to the Protestant sect, and believed she had the right to dispose of her daughter with regard to marriage, as with regard to other domestic matters. Furthermore, the advocate argues that the mother expected the greatest benefit from these marriages, both for her daughter and for the family; for she said: "I greatly desired to establish my daughter and to secure for her..."

[*Latin ed. p. 136*]

136. "The bright and happy future of the young Etienne," I thought, "given his education and the prospects that seemed assured to him by the position of his father, who was the administrator of the Credit Fund of Nice, and Vice-President of the Maritime Company of the Suez Canal, could realize the dream of happiness that I had formed for my child." Therefore, it is necessary to consider all those things that the Most Holy and Universal Church has taught are to be considered in such cases, as instructed by the Supreme Congregation in the Instruction, dated February 4, 1883. "It must be considered whether those who are accused of using violence and threats held parental authority and influence, or whether those who suffered violence and threats were in no way subject to them; what is the reason for the use of force; what is the character, condition, and manners of those who use force; how they are accustomed to govern the family; whether they are inclined to anger and violence... and whether they are so hard and obstinate in spirit that they would not tolerate anyone contradicting them or presenting obstacles." Furthermore, the advocate demonstrates the gravity of the fear instilled by the age of Carolina, who, at the time of the marriage proposal, had barely reached her seventeenth year, and by her very gentle and timid nature: "I must add," said the mother herself, "that my daughter, having left the Convent for about a year, was completely ignorant of anything related to marriage; she had never read novels... She never went out alone, she almost never left my side... she was submissive and absolutely devoted to her mother in everything else; it was only on this matter of marriage that she resisted me." Moreover, she continues,

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the means that the mother, of the character described above, employed to persuade her daughter were such that they could have broken not only a timid girl, but also a steadfast man. The mother herself admits this: "I employed all means, except beating her. Never," she said to her, "will I give my consent to anyone other than Mr. Etienne, and you will marry him, because I say so."

[*Latin ed. p. 137*]

NICEA, 157, desires; and if you do not marry Mr. Etienne, you will become a religious sister." The advocate, however, pointed out that the mother's testimony must be given the greatest weight; for she testifies from her own experience, which certainly benefits her honor. Therefore, according to the advocate, this testimony can be considered as a confession, which is called the queen of evidence in law. Hence, the Sacred Roman Rota has taught that the testimonies of those who have instilled fear should be given more weight than others, as stated in decision 732, § 6, before Emeriz: "Parents who have instilled fear are admitted... to testify, and when they testify about their own experience, their testimony should be given more weight than that of others." Furthermore, there are other witnesses who confirm the same and make it clearer. In support of the case, the defender presented the deposition of Elisa Forgeot, who, when questioned in her official capacity, responded: "I believe I can say, with all truth, that Miss Caroline was the victim of the violence of her mother. It was her mother who wanted it, against the will of her daughter and her husband. I can affirm this, because, as a maidservant, I was the confidante of her sorrows, a witness to the tears she shed for this marriage, to which she was forced, and of the violent and almost continuous scenes that took place in this house because of this very marriage... There were very violent scenes between the mother and daughter in the house, which continued until midnight." This testimony, the advocate says, should not be considered insignificant, since, according to the Sacred Roman Rota in decision 155, part 6, Recent: "What happens within the domestic confines is not readily apparent to everyone, nor can it be easily verified by others than by domestic servants." Moreover, the unfortunate girl, resisting her mother as much as she could, did not receive any help from her father. For, the defender notes, the mother herself confessed that she had subjected her daughter, not only through continuous and importunate pressures and violence, but also her own husband, who bore the marriage of such a daughter, or rather, her sacrifice, with great distress.

[*Latin ed. p. 138*]

158 EX S. C. CONCILII. Furthermore, the advocate continues, in order to achieve the objective he has set for himself, the mother of the petitioner was also afflicted by the poor health of her own husband, who, not long

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afterwards, that is, on March 11, 1884, reached his final day. Regarding this matter, the advocate states that the petitioner's mother, with great diligence, took care to ensure that she herself did not remain with her grandmother for long, nor did she converse alone with other individuals from whom she might have sought advice. Therefore, the advocate infers, from the aforementioned circumstances, that those matters which must be considered in order to demonstrate the existence of a reasonable fear are those which were taught by the Sacred Congregation of the Holy Office in the cited Instruction, article III: "First, account must be taken of the sex of the person who is said to have suffered violence; for the mind of a girl is more easily disturbed than that of a man; then, of her age, education, character, whether she is mild and timid, or strong and steadfast; of the manner in which she lives in the family, whether under the custody and vigilance of her parents, so that she is always and in all things dependent on their authority, or whether she enjoys some freedom, so that she can express her own feelings and act according to her own will; whether her parents have isolated her so much that all opportunity for seeking advice has been taken away from her, and they have allowed no one to speak to her, except those whom they judged to be able to give advice on entering into marriage." Finally, the advocate affirms that the mother's reprimands, vehement demands, abrupt commands, and acts of violence against the daughter, who was doing her best to resist, were almost continuous, and continued up to the day of the wedding celebration. Therefore, Elisa Forgeot stated: "I did not attend that wedding, because, due to the violent scene that had taken place in the house the day before, and which had begun again in the morning at 7 o'clock, I had no desire to attend such a wedding." To this is added the fact that the petitioner herself responded to the Judge who questioned her, saying: "I was sad and in tears during the ceremony, and my father was also weeping in a corner of the church."

[*Latin ed. p. 139*]

NICENE. 139. This alleged coercion, the advocate argues, is more clearly demonstrated by the subsequent events of this unfortunate marriage. It is best to hear first the testimony of the actress's mother, who, when questioned about the matter, responded as follows: "Immediately after the marriage, they departed for their honeymoon, which lasted approximately three months. In the letters that I received during this journey, I could already perceive that there was no intimacy between the newlyweds; for she spoke of her husband only to tell me that he was in good health and that he greeted me. But upon her return, I saw that discord reigned between them more than ever. Indeed, Mr. Etienne said to me: 'What a honeymoon you made me endure!' making it clear that there had been no marital relations between them. It was then that... I called my daughter and I pressed upon her with all the authority of a mother to compel her to fulfill

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her duties as a wife towards her husband. That was, perhaps, one of the most intense scenes I ever had with my daughter." The actress's husband himself could not deny this, when questioned by the judge: "For how long did the marital life last? Did she appear outwardly united and happy?" He responded: "Even for a rather prolonged period, Mrs. Caroline refused to fulfill her duties as a wife. The marital life did not truly begin until two or three months after the marriage. Moreover... the tensions never ceased in our household." To this, the actress added, when questioned by the judge: "At what time did the marital relations begin?" she responded without hesitation: "After three or four months of marriage, and through the intervention of my mother." Finally, Joseph Pons, who, at the time of the marriage, was the parish priest, stated: "Based on the impression that remained with me from everything I heard regarding this marriage, I can affirm that the father was opposed to it; that the daughter was under the influence of her mother, who was enthusiastic about Mr. Etienne. I was also told that the latter had complained to the mother about not having been able, in the beginning, to obtain his wife's obedience concerning the conjugal duty."

[*Latin ed. p. 140*]

140 FROM THE DECREES OF THE COUNCIL, to the "Defender of the Nicene bond," who asserted: "that a marriage duly celebrated before the Church, even if there is no consent from one of the parties, is made valid by spontaneous cohabitation or by intercourse." The advocate replies, recalling that, after the Council of Trent, it is a well-established principle of law that, in order to ratify a marriage, it is necessary to contract it again before a priest and witnesses. Thus, the Sacred Congregation declared in the case of Panormitano, on September 20, 1719: this is confirmed by several decisions of the Sacred Roman Rota, as in decision 50 before Seraphin, and also Barbosa, vol. of decisions, book 2, opinion 17, no. 179, vol. 4, page 1, § 40, etc. Indeed, the advocate continues, in this case, not only was the subsequent contract not a marriage in the Tridentine *forma*; but also, after the consummation and the birth of a child, as we have seen above and as the witnesses affirm, the wife never ceased to feel a strong and almost innate aversion to her husband. In fact, with the passage of time, things became so difficult that the wife, no longer being able to bear the daily hardship, attempted to end her suffering by a terrible plan, by taking poison. Finally, the advocate does not fail to point out that what he has presented so far does not lead to the presumption of consent that the wife expressed, either with words or with other signs; but rather, it leads to the judgment that the consent itself, even if it had been expressed in this case, was entirely vitiated and null, as it was unjustly extorted by force and fear. Therefore, concluding his argument, he presents two considerations, which, according to him, further strengthen the arguments presented. He says: according to

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canonical jurisprudence, when it is a question of the proof of duress, more credence should be given to two witnesses who testify to the duress, than to many who assert that the will was free. Thus, Mascardus, *De probat*, vol. II, canon 1055, no. 1 - there - "The proof of duress is more convincingly established by witnesses affirming it, than by those denying it; therefore, the Doctors establish the conclusion that more credence should be given to two witnesses testifying to duress than to a thousand denying or asserting freedom."

[*Latin ed. p. 141*]

NICAEAN. 141, concerning free will. Similarly, Pamolius, indecis. 102, year I, page 375: and the Rota before Louis, decision 326, § 26 - there: - "In cases of conflicting testimony, more credence is given to two witnesses testifying under duress than to a thousand testifying of their own free and voluntary will." Indeed, the defender continues, if, according to the aforementioned doctrine, in a conflict of witnesses, some of whom testify under duress while others testify of free will, more credence must be given to two witnesses testifying under duress; then it is easily seen that, by far, greater credence should be given to numerous witnesses in the case at hand, even though these witnesses, having testified under oath about the instilled fear, have been subjected to the most diligent investigations by the Judge and two marriage defenders, and not one has been found who contradicts, even in appearance. Furthermore, he argues, according to the doctrine of canonists and the most accepted jurisprudence, when dealing with a person to whom respect is due, importunate persuasions and insistence alone are sufficient to constitute a force and fear impediment, even without any threats or blows. Thus, Sánchez De matr. I. 4, disp. 6, n. 14; Reiffenstuel I. 1, tit. 40, n. 95; Schmalzgrueber vol. 4, part I, tit. 1, § 313, etc., and the Rota before Louis, decision 236, n. 13, teaches: "When importunate and continuous persuasions occur which are sufficient without threats and blows... Such importunate persuasions, when directed at a person to whom respect is due, instill just fear and have the force of coercion." However, the advocate points out, against his client, not only importunate persuasions and insistence were used, but also threats were employed by her mother, and therefore, he concludes, there is no doubt of the existence of a force and fear impediment.

OBSERVATIONS OF THE DEFENDER.

BOND. The Defender, on the contrary, given the circumstances of the facts that preceded the marriage, seeks to prove that Carolina not only gave her consent, but freely entered into this marriage. He states in his defense

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of this marriage:

[*Latin ed. p. 142*]

142 From the records of the Council, nothing was definitively established, nothing lightly, nothing superficially. Indeed, the marriage was begun in the year 1879, and during that time, Stephen was frequently present in the house. Carolina herself states: "I knew Mr. Etienne around 1879," and she recalls "the numerous (Stephen's) and too frequent visits." Furthermore, at that time, all civil, divine, and ecclesiastical laws were fully observed, with a large gathering of parents, relatives, and friends present, and both Stephen and Carolina signed the marriage contract, both in the town hall and in the church. When asked, "Did you sign the marriage document, either at the town hall or at the church?" Carolina responded: "Yes, I believe I signed it at the town hall, and probably also at the church." And indeed, the names of the man and the woman are found at the bottom of the marriage documents. Moreover, the advocate continues, Carolina herself was concerned about the celebration of the marriage, lest the thought of a less pleasant matter disturb the nuptial joy. In this regard, the following fact is relevant, reported by Joseph Pons, the women's parish priest, who, when questioned by the judge, "Can you tell us for what reason the marriage of Miss Caroline, who was, in 1883, your parishioner, was celebrated in the church of Notre-Dame de Nice?" responded: "Miss Gilly, a close friend of Miss Caroline, had died some time before, and the funeral ceremony was held in the church of Notre-Dame de Nice." Furthermore, Carolina invited her chambermaid, Elisa Forgeot, to the sacred marriage ceremonies, and she invited her so urgently that the chambermaid was compelled to give a reason for her refusal: "After, said Elisa, having dressed (the bride) I told her (as she was going to the church), 'I am too tired; I will stay here, I will see you when you return.'" However, the advocate for the marriage continues, the aforementioned Elisa Forgeot gives us a completely different account. For she says: "I did not attend that marriage because, due to the violent scene that had occurred in the house the day before..."

[*Latin ed. p. 143*]

NICE, 145, and having resumed at 7 o'clock in the morning, I had no desire to attend such a marriage." Therefore, the advocate for the sacrament, with necessary rigor, applied the truth to the matter, whether when he responded to the judge: "I had no desire to attend such a marriage," or when he spoke to Caroline: "I am too tired." He believes that she deviated from the truth when speaking to the judge, rather than when speaking to Caroline; for he knew that the judge, and not Caroline, could be deceived regarding the full truth of the matter. Indeed, according to the advocate, according to the most common axiom of law, "once a liar, always a liar,"

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no credence whatsoever should be given to the woman's testimony. The defender of the marriage does not hesitate to state that the actress, before the judge, openly affirmed: "When Mr. the Curé asked me if I wished to take Mr. Etienne as my husband, according to the laws of the Church, I did not answer; and if I did not answer, it is because I did not wish to answer." But the advocate opposed this affirmation with the testimony of Father Ferdinand Portal, a man distinguished by his religion and piety, and the president of a great seminary. Indeed, the witness, who in the first examination of Caroline performed the function of defender of the marriage, after having relinquished the defense of the marriage, was subjected to a judicial examination, and to the question: "Did she make any confession to you regarding the consent for the marriage, given by her before Mr. the Curé of Notre-Dame de Nice?" he responded: "In a private conversation, I expressed to Mrs. Caroline my astonishment that it would have been possible for her not to manifest her consent by external signs during the celebration of her marriage. She said to me: I fear that there was a misunderstanding in my testimony when I affirmed that I had not given external signs of consent, but I meant that I had not inwardly consented to this marriage." The judge presses: "When she told you that she had not given external signs of consent, did she mean to imply that she had not said: yes?" The priest responds: "What Mrs. Caroline most wanted to express was..."

[*Latin ed. p. 144*]

144. From the records of the Council, it is clear that internal consent was not given; but while affirming that external signs had been given, she was rather vague about the nature of these signs: such as a "yes" pronounced in a weak voice, or a nod of the head indicating consent. Moreover, I had no occasion to question her formally at that moment, and things proceeded as they usually do in a private conversation." Therefore, the defender argued, Carolina could not have given external consent to the priest Portal, because the signs of external consent are evident; she denied internal consent, of which she herself is the sole witness. But, the defender continues, this lack of internal consent is either a delusion of a sick mind or it was immediately remedied. For, Carolina herself, with her own mouth, swore in court: "What I confessed as a fault in my first confession." Therefore, the speaker wishes to have the woman brought before the sacred tribunal of Penance, so that whatever may have hindered the valid and licit celebration of the marriage may be corrected in that very union. He confirms this from the eloquent facts of marital life and the conception of children. Indeed, the questioning judge asks: "Was there a honeymoon, and how long did it last?" Carolina's mother testifies: "Immediately after the marriage, we left for the honeymoon, which lasted about three months." The defender does not deny that the mother affirmed: "In the letters that I received during

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that trip, I could already perceive that there was no intimacy between the young newlyweds: for she did not speak of her husband except to tell me that he was in good health, and that he greeted me." But, he replies, the mother herself does not present those letters. Hence, suspicion arises that those letters do not exclude the presumed fear, especially because it would not have been easy for Carolina to have frequently sent letters to her mother if she had been given to an unloved husband. Furthermore, for ten years, the woman cohabited with Stephen and bore two children.

[*Latin ed. p. 145*]

NICIE.f. 145. Praeterea, mater actricis non solum describit tribulationes et desperationem filiae in vita coniugali, sed praecipue narrat fontem, ex quo omnia mala in filiam emanant, simul cum necessitate separationis coniugalis. Ad hoc additur factum notissimum, quod apud tribunal laicum non agitur de coactis nuptiis, sed de iniuriis ab uno coniuge illatis alteri. Iam vero, infert orator, nemo facile mentitur, cum scit posse mendacium suum sine difficultate convincere. Praeterea, adhibet argumentum quod probatio generalis non sufficit ad probationem timoris. Ad rem, *Rota Romana* dicit: "Incussio timoris ad annullandum actum, sicut res de facto, debet concludenter probari. Et quidem, cum circumstantia, quod sit timor incidens in virum constantem. Si actus fuerit requisitus cum aliquo calore, non resultat probatio violentiae et timoris, qui non potuerit evitari a viro constanti." Et Sabellius, *Summa, divers, tract. § Metus, n. 3* (ibi), ad gravitatem timoris adhibendam, enumerat quinque conditiones, quarum una deficiente timor non probatur, dicens: "Quinque conditiones copulative requiruntur. Prima, ut malum quod timetur sit grave; Secunda, ut aestimatio mali sit fortis, idest ut timens non vane aut leviter credat malum illud sibi imminere, sed probabiliter; Tertia, ut metum incutiens sit potens minas exsequi, cum non sit viri constantis ac fortis quibuscumque minis terreri ac trepidare ubi non est timor; Quarta, ut sit solitus exsequi minas; aliter si sit homo iactabundus et facilem iram deponens; Quinta, ut timens non possit facile occurrere malis, quae sibi timet imminere; quia si posset alia ratione mederi, non est iustus metus." "Ex quo sequitur," ait Schmalzgrueber, *Ius can. part. 5, tit. 49, n. 3*, "quod omnis ille metus, qui quinque conditionibus instructus non est, non sit gravis metus respectu illum patientis." Iam vero, contendit defensor matrimonii, non solum nec unum in actis proest factum, quod quinque his conditionibus...

[*Latin ed. p. 146*]

146 It must be established from the canons of the Council, which must concur in their judgment, but the contrary has been proven. The mother herself does not recount any other threat than this one: "Never," she said to her daughter, "will I give my consent to anyone other than Mr. Etienne; and you will marry him, because I want it; and if you do not marry Mr.

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Etienne, you will become a religious." The witnesses themselves do not recount specific actions, but rather general words. However, the defender of the sacrament proclaims that witnesses must recount facts with the circumstances added, along with the place and time, so that the judge, having heard these things, can easily determine whether the actions, as they are narrated, are such that they should be admitted or excluded, in order to determine whether a grave fear is present. Furthermore, it is asserted that the mother forced her daughter to enter into a marriage against her will; but at the same time, it is affirmed that the mother threatened her daughter with two evils: "Never will I give my consent to anyone other than Mr. Etienne..." "If you do not marry Mr. Etienne, you will become a religious." Therefore, the advocate replies, the matter is not about present torments, cruelties, or other present evils, but about threats, or future evils. Indeed, he argues, the things that the mother threatened her daughter with are neither grave nor light, nor are they evils, since they are not certain to come to pass. Furthermore, the defender argues that when the mother says to her daughter, "Never will I give my consent to anyone," if she intends this to be limited to the time when the daughter is of a lesser age, she does no injustice to the daughter, because the mother is exercising a right granted to her by law. But if she intends the denial of consent to extend to the time when the daughter is free from paternal authority, the young woman of free America certainly knew that she would be free to marry whomever she wished, even against her mother's will, once she had reached her majority. And therefore, he concludes, both...

[*Latin ed. p. 147*]

NICAEAN. 147. The hypothesis evidently excludes all the conditions mentioned. Alice responds to the threat: "If you do not marry Mr. Etienne, you will become a nun," with a laugh, as the speaker sees the mother, tainted with heretical influence, threatening her daughter's entry into the Religious life! "Mother," says the inquisitor, "you, in your Protestant faith at that time." No better omen is offered, in the case where it is claimed to be a reverential fear, because the mother said to her daughter: "You will marry him, because I want it." The speaker replies that reverential fear, no more than ordinary fear, is conceived without a serious evil. Nor are the facts presented with all the circumstances, from which it would be clear that Carolina, resisting her mother's will, suffered a serious evil. On this point, Sánchez de Matrimonio, book 4, chapter 6, paragraph 14, teaches: "If a daughter enters into marriage without prior threats, solely out of fear of incurring the father's displeasure, it is valid; for fear is not considered to be a cause of invalidity when it falls upon a constant man.... However, I would qualify this to be understood when that father's displeasure... will not last long, but there is hope of future reconciliation; if, however, she feared that the father's displeasure would be long-lasting and that she would always

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have a father... very angry and indignant, and would publicly reproach her for her disobedience, I would believe that this is a fear that falls upon a constant man." But the defender does not see any facts that testify to the great and lasting indignation of the mother towards Carolina, especially since we are dealing with American children, in whom reverential fear is not easily rooted. Finally, considering what concerns the permission granted by the parish priest, not by her own authority, the speaker presents the testimony of the priest Anthony Tordo, who performed the marriage ceremony. Given these circumstances, the speaker believes it almost superfluous to recall the principle affirmed in Aquen, or Massilien, on August 9, 1890, and in Warsaw.

[*Latin ed. p. 148*]

148 FROM THE HOLY GENERAL COUNCIL [of] Blenheim, of the 10th of September, 1898: namely, that it does not devolve upon the priest who received the matrimonial consent of the contracting parties, to prove that he was duly delegated, but that he who impugns the validity of the marriage, unless he is the proper parish priest of the contracting parties, is scarcely heard, if he does not support his action with suitable arguments. Therefore, the matter is resolved by recalling to mind the Instruction issued by the Sacred Roman Congregation of the Inquisition, on the 20th of June, 1883, in which, in article "De impedimenta vis et metus" § 39, it is stated: "Let the judge know that marriage is, of itself, a certain solemn and public act, which ought always to be considered valid, unless those who see the reasons for it demonstrate its nullity. Therefore, indeed, every effort and diligence must be taken to gather these reasons, but judgment against the marriage must never be pronounced unless the totality of them excludes all prudent doubt of the existence of an impediment." With these considerations, it was deemed necessary to resolve the doubt: whether the judgment of the Nice [Council] should be confirmed or rejected in this case. The Sacred Congregation responded on the 17th of June, 1899: "Let the proofs be extended and supplemented." PROCEEDINGS. It was written to the Bishop of Nice that he should complete the process so that the letters which Carolina wrote to her mother, during the "voluptuous journey of marriage," should be presented and transmitted to the Sacred Congregation; and that witnesses should be summoned by order, who were either present at the celebration of the marriage, or at least, from public reputation, knew what judgment was held concerning these marriages. DEFENSE OF THE WOMAN. He who defends the rights of the plaintiff, first of all, contends that the aforementioned letters sent by the plaintiff, Carolina, to her mother, during the "voluptuous journey of marriage," which would certainly have greatly benefited this cause, were, in fact, destroyed long ago. Furthermore, he states that it is to be lamented that the parish priest, Gerinond, who blessed the

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marriage, and who, above all, omitted...

[*Latin ed. p. 149*]

NICE. 149. The defendant, having denied this fact before him, could have provided evidence of her death, which occurred on July 23, 1897, before the beginning of this cause, but she did not. However, other witnesses were examined, and other documents were presented; therefore, the plaintiff argues that the case has become stronger due to these more recent proceedings. Among the newly presented documents, he emphasizes, above all, letters written by Stephen, shortly before the marriage, to the defendant's mother, which, as if by chance, were preserved, although they are so torn and fragmented that many words can scarcely be guessed, and cannot be read at all. In these letters, Stephen speaks of a vehement and utterly invincible aversion that Carolina felt towards him. The plaintiff does not deny that these letters may lack a date, but he maintains that they were certainly written shortly before the marriage. Furthermore, among the new witnesses, the Countess B. Ducos provides testimony, who swore that she had definitively read letters in which the defendant wrote during the wedding preparations; and although she subsequently stated that she had forgotten the "exact words," she nevertheless asserted: "The letters that I saw alluded to the pressure of the mother, and Caroline expressed her regret for having obeyed." Since the defendant's advocate maintains that the sole or primary reason why the Sacred Congregation postponed its judgment was that it did not seem sufficiently established that the mother had exerted undue pressure on her daughter, the plaintiff pauses to reiterate what the newly examined witnesses swore regarding the mother of the defendant, who was, in her obstinate and domineering nature. He also points out that, from the very tenor of the judgment of Nice, it is clear that the aforementioned mother of the defendant, an American, who at that time belonged to the Protestant sect in which she was born, had not yet been converted, and that she believed she had the right to dispose of her daughter, with regard to marriage, as with regard to other domestic matters. And the defendant, Carolina, was—

[*Latin ed. p. 150*]

I 50. That no one would doubt that she knew the character and opinion of her mother, as the Council of Trent teaches, is indeed certain. Moreover, the advocate argues, the unjust oppression of liberty, through great fear, could be conceived and established even if no threats or vexations had intervened. For, he says, fear can be instilled and often is, not only through expressed threats and violent actions, but also through a single glance and a particular tone of voice, by those who hold power. Furthermore, a well-established rule of prudence is not to offer resistance to the powerful, as according to Holy Scripture, Ecclesiasticus, chapter IV, verse 32: "Be not proud in thy

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presence of the great, nor make thyself straight in the sight of the mighty." Therefore, it is not surprising, the advocate continues, that the unfortunate woman, knowing the will of her powerful and unyielding mother, and despairing of achieving anything through her own efforts of resistance, would submit to the marriage imposed upon her, even before threats and afflictions had a chance to arise. However, no one could certainly assert that the woman acted freely in this case, with that liberty which the Holy Canons require in marriages, lest anyone "say that they consent willingly to what they hate, and follow the consequences that usually result from forced marriages." But, the advocate continues, in this case, there were not lacking strong efforts of resistance, and therefore, threats and afflictions, which were sufficiently grave and prolonged, and, what is most noteworthy, almost continuous, and extended until the day of the marriage celebration. The details of these events are recounted by Elisa Forgeot, born Raichi, who, being called again in another judicial examination, affirms: "I maintain entirely my first deposition... and I add: Madame, the mother, did not strike her daughter; but she would take her by the arms and shake her violently, like a child, saying to her: 'You will take him.' This happened very often; however, I could not specify the number of times. Often, she also deprived her of a dress, a piece of jewelry, and many other things that were very pleasing to young girls, as punishment for her..."

[*Latin ed. p. 151*]

NICEA. 151. Resistance to consenting to the marriage. The day before the wedding, a scene more terrible than the others took place between the mother and the daughter. This scene lasted from 9 o'clock in the evening until midnight; I was present... In the morning, the scene began again; the daughter was, so to speak, more dead than alive...". Indeed, according to the defender, these things are quite sufficient, and even more than sufficient, to render the domestic and family life of any daughter grave and burdensome; which constitutes a grave evil, as is also evident from the celebrated Instruction of the Holy Roman Church, where, under numbers 35 and following, it is written: "The gravity of fear arises from the nature of threats, from the quality of both those from whom they originate, and of those who are said to suffer them. These three things, therefore, must be especially investigated. Regarding the first, diligent inquiry must be made as to whether those who are accused of using coercion have been accustomed to act with the person who is said to be coerced in such a way as to render her domestic and family life grave and burdensome." Furthermore, the defender recalls that, according to the common doctrine of canonists and constant jurisprudence, when it is a question of a mother or another person to whom one owes reverence, no explicit threats and subsequent afflictions are absolutely required to constitute a vitiating force and fear impediment, but rather, importunate persuasions and importunities are

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sufficient, or even alone. This doctrine and constant jurisprudence have an intrinsic reason, namely, that the daughter deserves to fear that, by refusing to obey the obstinate will of her mother in such a serious matter, and by rejecting her commands, she will incur her long-lasting indignation, which is certainly a grave evil, and is considered as such in law, as demonstrated by Sánchez de matr. lib. 4, disp. 6, n. 13; Pirhing lib. 4, tit. I, sect. 4, n. 119; Schmalzgrueber tom. 4, part. I, tit. I, §§ 513; Card. D'Annibale Summ. Theol. mor. part. III, §§ 315 et Prolegom. § 138 et plures alii. Furthermore, the defender proves the gravity of the instilled fear from the effects that immediately followed from the aforementioned circumstances.

[*Latin ed. p. 152*]

152. FROM THE HOLY COUNCIL: There are five reasons which cannot be explained in any way, unless it is assumed that a prior cause existed, which truly violated and completely took away the bride's freedom. Furthermore, the defender recounts that the actress shed excessive tears during the marriage ceremony, which perhaps also caused the priest present to not notice the defect or denial of verbal consent, since he thought that the tears themselves were an impediment to the bride from uttering her voice, which she was deliberately restraining. He also proves this from the fact that, during the marriage, for about three months, the bride completely neglected marital duties, and never fulfilled them until, at the request and complaints of her husband, the most violent order of her mother intervened. Moreover, regarding the stimuli of conscience that the bride's mother perceived and still perceives, he relies on the testimony of a newly examined witness, and a witness of the greatest importance, namely, her own parish priest, named Coelestinus Mallet.

OBSERVATIONS OF THE DEFENDER. REGARDING THE BOND.

From the opposite side, the defender of the bond argued with all his might that this case did not appear to be in a better condition based on the newly presented evidence; for, he said, the required letters sent by the daughter to the mother, which letters were supposed to constitute the sum of the supplementary judgment, were not produced: and the letter of the husband, which was presented, despite its gaps, excludes the alleged fear: and the new witnesses have revealed nothing at a time not suspected. And to this, the accuser adds further proof. Furthermore, the tutor of the marriage observes that neither the witnesses nor any other person that the actress brings forward, are those who create the alleged fear, as is evident from the most wise decision of the E.E.V.V. ("proofs are aided"); and that the letters which she herself gave to her mother at a time not suspected, she cannot produce: therefore, he concludes, the much-vaunted fear cannot be demonstrated: therefore, the case necessarily falls. For it is a most common

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axiom of the forum: "The defendant is acquitted if the plaintiff does not prove." But in referring to the contradictions in which the opposing party is entangled, the accuser delays for a short time.

[*Latin ed. p. 153*]

NICE. 153. The prosecutor, presenting the letter in question, initially admits that the aforementioned letter appears to have been addressed to Stephen and was written at a time that is not entirely suspicious; however, he does not see any comparison of the handwriting that would allow him to determine whether the letter was indeed written by Stephen, nor is there any trustworthy testimony to prove that it was written at the time it is alleged to have been written. Furthermore, the defender concedes that, despite the deleted words or gaps that are present in the letter, it conveys a genuine meaning. But, having admitted this briefly, he proceeds to state the following: 1°. Carolina once laughed at Stephen's departure. 2°. Stephen, for this reason, abandoned his plan to marry her: "May God grant your daughter the happiness with another that I would have so desired to share with her." However, the defender continues, these two facts – namely, Carolina, who laughs in Stephen's face; and Stephen, for whom this is quite enough to renounce Carolina's marriage; and who immediately writes to his mother: "May God grant your daughter the happiness with another that I had so desired to share with her" – clearly indicate a fabricated fear and a forced marriage. The defender argues that, from these premises, the same purpose was to be achieved: to determine whether the judgment of the Court of Nice should be confirmed or overturned in this case. To this doubt, the Sacred Congregation responded on January 27th: "Further evidence is required and should be gathered."

PROCEEDINGS IN THE CASE. First, the defender of the actress recalls that it is certain that the actress, before the celebration of the marriage, had always shown Stephen a strong antipathy and aversion. This, neither the mother nor Stephen himself could deny; indeed, several witnesses affirmed it unanimously. This is also evident from the letters written by Stephen to the actress's mother, shortly before the marriage, the beginning of which is quoted above.

[*Latin ed. p. 154*]

154 FROM the documents of the Council, no one has dared to deny the authenticity of the defense concerning the marriage. Indeed, in his writings, Stephanus, among other things, deceitfully stated that he had been working diligently for a year to win Carolina's love, but that his efforts had been in vain, and that he had finally received a final rejection from her. Furthermore, the defender continues, it is clear that Carolina had always been averse to Stephanus, that she had openly rejected him throughout the year, and that finally, at a time when Stephanus was not suspecting

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it, she inflicted "the final blow," which completely extinguished all hope of entering into marriage with him. Therefore, it must be concluded that some external force must have intervened, for which reason the marriage itself was initiated. The advocate argues that this force was none other than the mother's authority, which was as unjust as it was persistent and irresistible. On the contrary, it is certain that the young woman was only seventeen years old at the time, and that she was of a gentle and timid nature, completely ignorant of the affairs of the world; and that her father, who died shortly after, was already ill and completely unable to defend his daughter against the force of her mother. Therefore, the defender argues, everyone can see how easily the freedom of a young woman, constituted in such circumstances, can be violated and suppressed. It is indeed clear that no one, weak in strength and lacking assistance, can resist the authority of a powerful person prudently and effectively, as even Holy Scripture teaches in the book of Ecclesiasticus, chapter 4, verse 32: "Resist not against the face of the mighty, and do not strive against the stream of the river." However, the law is that which wisely, in its own manner, has been examined by the Holy Roman Rota in decision 336, number 3, where it states: "The argument based on probabilities is of great value in proving fear." With these considerations, the defender adds judicial arguments, and gives special weight to the oath of the young woman, who asserts that she did not consent to the marriage freely, nor in any way. Furthermore, the unfortunate young woman is so ill that she suffers from her health.

[*Latin ed. p. 155*]

NICEA. 155. It is evident that she is not far from the final day, when she must render a strict account to the Infallible Judge. Furthermore, as stated in the judgment, she herself was gravely warned and "assured that she would vainly seek to consult her conscience, as she herself intends to do, through perjury." No less important is the testimony of the mother, who, under oath, declares that she exerted a serious and unjust pressure against the actress. Indeed, as the defender points out, she swears to a fact that is certainly detrimental to her honor, and therefore her testimony is equivalent to a confession of the fact, which is commonly called the queen of evidence in law. Truly, the advocate contends, the statements of the actress's mother not only generally stated that she used all means to compel her daughter to marry, "j'ai employé tous les moyens, sauf la battre" (I have used all means, except beating her); but also, specifically, she revealed things from which it is clearly evident that the following consequence actually occurred, namely, that the actress's freedom was seriously, indeed completely, violated. She certainly recounted her demands, orders, and violence, against her daughter, who was resisting as much as possible, until the day of the marriage celebration, and she stated that she never heard her daughter give verbal consent to the marriage. Moreover, other

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witnesses are presented, to whom complete credence must be given and should be given. The advocate does not fail to mention that other witnesses are entirely consistent with the aforementioned testimonies, especially the actress's brother and others. However, the defender argues that the aforementioned parish priest recently passed away and therefore could not declare that he heard what he reported, as another parish priest, Mallet, stated that he heard these things before any consideration was given to requesting a declaration of nullity of the marriage, that is, at a time when there was no suspicion. No less, the defender argues, concerning the death of the aforementioned priest, Pons, that he could not declare that he had been mistaken, or that...

[*Latin ed. p. 156*]

156. EX S. C. CONCILII non proprie locutum fuisse, cum dixit: « Mademoiselle Caroline m'a demandé la permission de célébrer son mariage dans l'Eglise de Notre-Dame de Nice »; quandoquidem oratrix maxima affirmatione asseverat, se nunquam nec cum matre, nec cum alio quopiam, adiisse parochum, ut eiusmodi licentiam peteret.

ANIMADVERSIONES. VINCULIDEFENSORIS. E X adverso vinculi defensor praemittit quod matrimonium, coram parocho et duobus testibus initum ad formam a Conc. Tridentino praescriptam, semper validum praesumi debet, nisi evidentissimae rationes contrarium evincant. Ad rem Instructio S. U. I. edita die 20 Iunii 1883 monet: « Iudex sciat matrimonium esse per se factum quoddam solemnem et publicum, quod semper validum censeri debet, nisi evidentes rationes eiusdem nullitatem demonstraverint. Ideo curandum quidem omni studio atque diligentia, ut rationes istae colligantur, sed iudicium contra matrimonium nunquam erit pronunciandum nisi earum complexio omne prudens dubium de existentia impedimenti excludat ». Et ad impedimentum metus, quod attinet, recolit quae ad rem habet Rota coram Molinas dec. 920, n. 16: « Incussio metus ad annullandum actum, tanquam quid facti debet concludenter probari. Et quidem cum ea circumstantia, quod sit metus cadens in constantem virum ». Quare Sabellius aliquas enumerat conditiones, ut metus sit cadens in virum constantem (Summ, divers, tract. § Metus n. 3). Iam vero, iuxta defensorem vinculi, non solum nec unum in actis prostat factum, quod hisce conditionibus quae cumulative concurrant oportet, instructum sit; sed contrarium in probatis est. Porro cubicularia illa, Elisa Forgeot, sciscitata a iudice: « Madame a frappé sa fille, pour l'amener à ce consentement? » respondet: « Non ». Urgenti iudici: « L'a-t-elle menacée de la chasser de la maison? » cubicularia pariter reponit: « Non ». Mater ipsa non alia metus facta, quam haec recensere audet: « Jamais (ita illa) je ne te donnerai, lui (filiae) ai-

156. From the records of the Sacred Congregation, it is not properly stated that: "Miss Caroline asked me for permission to celebrate her marriage in the Church of Notre-Dame de Nice"; for the plaintiff affirms

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with the greatest insistence that she never, either with her mother or with anyone else, went to the parish priest to request such permission.

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE. The defender of the marriage begins by stating that a marriage, entered into before a priest and two witnesses, according to the form prescribed by the Council of Trent, must always be presumed valid, unless most evident reasons prove the contrary. Regarding this matter, the Instruction of the Sacred Union issued on June 20, 1883, warns: "The judge should know that marriage is, by its very nature, a solemn and public act, which should always be considered valid, unless evident reasons demonstrate its nullity. Therefore, every effort and diligence must be made to gather these reasons, but a judgment against the marriage should never be pronounced unless the totality of these reasons excludes all reasonable doubt about the existence of an impediment." And with regard to the impediment of fear, it recalls what the Rota has stated in the case before Molinas, December 920, number 16: "The instilling of fear to invalidate an act must be conclusively proven as a fact. And indeed, with the circumstance that the fear falls upon a constant man." Therefore, Sabellius enumerates certain conditions, so that the fear falls upon a constant man (Summ, divers, tract. § Metus n. 3). Now, according to the defender of the marriage, not only is there not a single fact in the records that would be required by these conditions, but the contrary is proven. Furthermore, that woman, Elisa Forgeot, questioned by the judge: "Did Madame strike her daughter to bring her to this consent?" replied: "No." When urgently questioned by the judge: "Did she threaten to chase her out of the house?" the woman likewise replied: "No." The mother herself dares to recount no other act of fear than this: "Never (so she), I will not give it to you, to you (her daughter)."

[*Latin ed. p. 157*]

NICAIEN. 157 "Dico, volo tuum consentum, non ad unum quemquam, sed ad Dominum Stephanum, et tu eum maritaris, quia ita volo: et si non maritas Dominum Stephanum, te ipse monachiam facies." - "Ego non minaciae naturali filiam meam expelli domo, nec privari hereditate, quia hoc, secundum legem, ad patrem pertinebat." "In omnia," dixit defensor, "vinculorum defensor: quidquid praeterea in medium affertur generalibus verbis, ut "ego omnia media adhibui..., illa magna antipathiam pro eo habuit..., Mademoiselle Caroline victima fuit violentiae matris suae..., in domo erant scaenae valde violentes inter matrem et filiam...," et similia, secundum oratorem, "fumo faciunt, sed questionem non illustrant." "Nam testium officium est facta referre cum circumstantiis adiunctisque loci et temporis, et ad cognitionem, ut iudex, his auditus, facile possit discernere, an facta prostent, sicut narrantur, et an positis huiusmodi factis admitti vel excludi debeat timor gravis." "Sed de his omnibus in prioribus animadversionibus locutus est defensor, modo vero adit ad refutanda argumenta, ab adver-

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sario allata." "Et primo, notat novum summarium, quamvis una supra viginti paginis constet, attamen nec unum quidem continet novum testem, et aliqua tantum afferuntur scripta testimonia non solum circa res, quarum nexum cum praesenti causa nemo facile intuitur, sed etiam circa testes, qui extra controversiam positi sunt." "Neque," instat, "minus errat contradictor, dum persuadere contendit, actricis matrem facile putasse licere sibi, quippe quae patria americana est et necdum conversa erat a protestantium secta, in qua nata est, disponere de filia quoad matrimonium, sicut de ceteris rebus domesticis." "E t enim oratorem non latet maxima libertas, qua perfruuntur istarum matrum puellae, quae vel antequam pubertatem adipiscantur perinde cum parentibus agunt ac si a patria potestate egressae sint." "Hiscce tamen non obstantibus, adversus patronum con-"

[*Latin ed. p. 158*]

158 The Holy Council emphasizes that the testimony of the actress should be given special weight; for it states: "The one who appeals to the authority of the Church cannot have any other aim than to seek the counsel of her conscience." Furthermore, this is confirmed by the fact that the actress is so ill in health that she clearly perceives that the final day is not far off, on which she must render a clear account to the infallible Judge. However, the defender replies that if the illness, which she calls "chronic anemia," truly prevented the actress from offending God, she would not only not have worsened, but would have greatly lessened her state of sin, since she is bound by a civil law to a certain Droz. Moreover, the defender continues, the actress's mother not only describes her daughter's sorrows and despair, but most importantly, she recounts the source from which all the evils in Carolina originate, along with the necessity of the marital separation. She says: "It is Stephanus who said: - All are on my side -." Therefore, she argues, the marriage has had a bad outcome, not because the wife was unwilling, but because the husband has afflicted his wife with all kinds of injustices. Furthermore, the defender laments that the civil court records pertaining to the present case were not included, although the defender of the sacrament in Paris had requested them; for, according to the speaker, it is of the utmost importance to know whether, regarding the alleged fear that Carolina experienced, any action was taken in the civil court. Furthermore, the defender speaks of a letter that the husband gave to the actress's mother before the marriage, and he first points out that the aforementioned letter was not presented immediately, nor in its entirety, but only in a fragmented state, in a later stage of the proceedings. Therefore, if one were to say that this letter was torn up after the marriage tutor requested it, the defender is not surprised by the actions of Carolina and her mother, who are accustomed to keeping all letters until they are useless, and then destroying them immediately after they are no longer needed. Furthermore, that letter was not the one that would easily be

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remembered by the daughter and her mother; for it was one that was sent by privileged...

[*Latin ed. p. 159*]

NICENE. 159. A singular circumstance emerged concerning the general order for the destruction of letters. Furthermore, the mother writes: "I have always made it a principle to destroy all my letters, except for business letters. I have always instilled these ideas in my daughter, and I know that she too has destroyed all her letters." However, no one will claim that this letter belongs to the category of "business letters," since not a single word in it can be said to relate to the present marriage. Rather, the advocate maintains that the mother and daughter condemned to destruction all letters that are harmful, and conversely, preserved, either in their entirety or in part, those that are harmless. Perhaps for this reason, only harmless fragments of that letter reached us. This seems to be indicated by the very person involved, when she writes to the judge, as mentioned above: "I have at my disposal a letter from Mr. Stephen that my mother had intended to destroy, but from which she decided to keep the pieces." This is confirmed by the fact that the paper on which Stephen's letter was written is exhibited, torn from top to bottom and from side to side; indeed, the tear that runs from top to bottom is a simple tear, so that no word, nor even syllable, is destroyed by it; but the tear that runs from side to side not only tears the paper, but also removes several words and one or two lines of writing. The simple tear, as everyone can see, is easily made; on the other hand, a tear that removes a part of the paper, so that words are torn away here and there, does not easily occur, unless someone deliberately intended to destroy the words on that part of the paper. However, the advocate continues, even with the deleted words, it is clear from this letter that: 1. It was not the case that Stephen disliked Caroline, but rather, contrary to what might be supposed, because of a matter of almost no importance, Stephen renounced marriage, saying: "May God grant your daughter happiness with another, which I had so greatly desired to share with her." 2. The spaces of paper that have been deleted continued the arguments of love that Caroline had shown to Stephen.

[*Latin ed. p. 160*]

160 FROM THE HOLY GENERAL COUNCIL: "It is so sweet to love, and (the following words are deleted) there is no excuse for it. Therefore, I have had good times." 3. If Stephen, having dismissed the counsel of leading Carolina, later withdrew, and if a marriage took place, then certainly Carolina would have provided Stephen with new arguments for love. After these things, the defender of the sacrament believes that the words must be repeated concerning the witnesses, since in the aforementioned observations he has shown that they do not contribute at all to proving the

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accusation of fear, but that even the confession of fear which they say they heard from the mother, is referred to a suspicious time, as it appears from the context of the confession itself. With these premises, it is necessary to consider the following question: Whether the judgment of the Council of Nice should be confirmed or rejected in this case. RESOLUTION. The Holy Sacred Council, after discussion on July 1, 1900, decided to respond: From what has been presented, it does not sufficiently appear that the marriage is null. MELBURITAN LEGAL PROCURATORS. On February 17, 1900. Session 21, chapter 3. Concerning the references. In the plenary assemblies of April 27, 1895, the following questions were proposed: I. Does the right to elect and nominate procurators for the administration of the goods of the Collegiate Church belong to the Chapter of the same Church, as in this case? And to what extent? Affirmative. II. Does it belong to these same procurators to affix edicts for entering into emphyteutic contracts, in this case? E. E. PP. considered it advisable to respond. To I. Affirmative, to II. Negative (1). From this judgment. SUMMARY OF THE FACTS. (1) Recole Vol. XXVIII, 157.

[*Latin ed. p. 161*]

In the year 1631, one party and another, contending for that which each had claimed, interposed an appeal. But before I explain the observations of the appellant, it is helpful to recall the sequence of events. The Church of Saint Helen, Empress, in the town of B, in the archdiocese of Melevitana, at the request of Philip Borg, the parish priest of this church, was, in the year 1630, erected into a collegiate church by Urban VIII, the Supreme Pontiff, after the perpetual suppression and extinction of the parish church, with thirteen benefices, namely, a prebend and twelve canonries, and with the grant of all kinds of exemption from the local Ordinary. For the care of souls, a perpetual vicariate was established in the collegiate church, distinct from the beneficed canons, in which a secular priest was instituted as the perpetual vicariate of both the parish and collegiate churches. Considerable difficulties hindered the execution of these decrees, until, after various disputes, the Roman Rota, by decision of December 9, 1637, declared that the Pontifical Constitution, as regards the exemption from the local Ordinary, was not to be enforced. Thus established, the collegiate church gave rise to other canonical disputes between the vicariate and the canons concerning the administration of the church and the rights of precedence; and, as Benedict XIV recounts in the Bull - In Supremo Apostolatus -, in order to resolve these disputes, a convention was initiated in the year 1687, with the Bishop as mediator, whereby the vicariate was elevated to the dignity of Archpriest, and was co-opted into the Chapter, with precedence granted over the simple canons. Innocent XII, by a papal decree, confirmed this agreement, and it thus had full force. Nevertheless, after disputes arose between the Chapter and the Archpriest concerning the governance of this

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church, the same Pontiff recounts in the aforementioned Bull that "both parties agreed that everything pertaining to the care of souls and the administration of the sacraments, and the goods pertaining to the aforementioned Archpriest, belonged to the Archpriest; but the economic administration of this collegiate church..." (Acta. Tom. XXXIII. fase. CCCLXXXVII. 11).

[*Latin ed. p. 162*]

"From the decrees of the Council, it had been assigned to the Archpriest and to the other half of the government of this [ecclesiastical] district, that [certain matters] should belong to the aforementioned Chapter and Canons; and this has been observed until now, but it has never been confirmed by the aforementioned Apostolic See." However, since the disputes between the Canons and the Archpriest did not cease, the same Benedict XIV, in the aforementioned Bull, in order to completely eliminate all litigations and controversies, suppressed the Archpriestate, "so that henceforth the care of the souls of the parishioners of the aforementioned collegiate church should be annexed to the aforementioned Praepositura, along with all revenues and distributions... with which both the Archpriest of the same collegiate church and the Praepositus had, until now, respectively enjoyed and possessed," "leaving with the Praepositus, for the time being, half of the economic administration and management of all things pertaining to the aforementioned collegiate church, which previously the Archpriest of the same collegiate church enjoyed." Furthermore, it should be noted that the economic administration of the church, which is now being disputed, seems, for the first time, to be between the Chapter and the Bishop, whether this administration includes only the administration of the goods of the Capitular Mass, or also the revenues and income of both the church fabric and the pious sodalities, chapels, the altar, the icons present there, and any kind of donations. For the Bishop contends that, except for the Capitular Mass, the administration of all other revenues belongs to him; therefore, while the Chapter elected, on November 14, 1890, a procurator for the goods of the Brotherhood of the Most Holy Virgin of Mount Carmel (Bulla = Mount Carmel) established in the collegiate church, the Bishop himself elected another procurator on the 26th of the same month and year. Furthermore, the Bishop, without consulting the Praepositus and the Canons, permitted the procurator of the Lampadarum [lighting fund] or the church fabric, elected by the Chapter, to grant a piece of land belonging to the aforementioned church in emphyteusis [a form of long-term lease].

[*Latin ed. p. 163*]

MELELEANA 163 These two acts of the Canons, since they infringe upon the rights of others, bring the matter before the solemn judgment

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of the Sacred Congregation. They demand the free administration of the revenues concerning this matter, against the Bishop. Therefore, the Chapter states in its supplication: "Therefore, this Chapter, in order to safeguard its own interests and rights, which it believes are violated by the interference and opposition of the Bishop, implores that, after examining the dispute that has arisen, it may be judged whether the administration, temporal and economic, of the Church of Birchircara, and the consequential faculty of appointing procurators for the exercise of said administration, belongs to this Chapter, as it confidently hopes, or to the Bishop." On the other hand, the Bishop concludes his statement to the Sacred Congregation: "After this, I have firm confidence that this Sacred Congregation will reject the aforementioned claims, maintaining the Ordinary in peaceful possession of his rights, which he has always exercised concerning this Church until now, and at the same time obligating the Canons to bear all the expenses of the cause, since it does not seem just to me that, due to the whim of some of them, who are distinguished by their restless spirit, the Curia, after the arduous effort expended in examining so many documents, should be subjected to such a penalty." For the sake of knowledge of the arguments presented by the lawyers in this action, it is necessary to summarize the previous document. Concerning the request for appeal, it should be noted that, during this judgment, discussions were initiated between the parties in order to reach an agreement, and the following agreement, approved by both the Chapter and the Bishop, was proposed: 1) "That both parties contesting the matter remove the appeal; 2) that the decisions of the first instance of the Sacred Congregation of April 27, 1895, be adhered to; 3) that, as long as Monsignor Pace has the reins of this Diocese of Malta, the appointment of the procurators of this Collegiate Church and its altars shall be made for half the time, that is, for two years, by Mons. Vet."

[*Latin ed. p. 164*]

164 FROM THE DECREES OF THE COUNCIL, I have investigated, and for another two years from the Chapter, and thus continuously, and in no other way; 4) that publications for the granting of usufruct rights to properties belonging to this Collegiate Church and its altars shall be made not only in the Curia but also in this Collegiate Church; 5) that both parties in dispute shall supplicate the Holy Father for the approval and confirmation of this present concord." The concordat was ratified by both the Chapter and the Bishop, who, however, attached a condition to his approval: "subject to the approval of the Holy See," explaining the reason for this in a letter from the Sacred Congregation dated March 14, 1896, in the following manner: "If the other articles are all acceptable, the third does not seem to me to be at all worthy of approval, since it leaves open a wound between the Chapter itself and my Successor from the very moment that he is installed

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in the governance of the Diocese. I hope that Your Eminence will find this observation to be just, and that, in the interest of a firm and lasting peace between the Diocesan and the Chapter, you will put an end to this dispute once and for all, by modifying that article in such a way that the alternation, as established in the aforementioned article, is made perpetual." And it is with this intention, and with this hope, that I have accepted it, and I have added the words "subject to the approval of the Sacred Congregation," being certain that a provision so temporary would not be sanctioned by this Congregation." Subsequently, the Sacred Congregation refused to confirm the agreement unless it was extended to future Bishops, or unless it was made perpetual; to which condition the Chapter refused to agree, and thus the concordat fell through. A SYNOPTIC ACCOUNT. DEFENSE OF THE BISHOP. The advocates who defend the Bishop note, in the first place, that a general custom has prevailed throughout the island of Melvita: that all the procurators of the churches are appointed by the Bishop. This is confirmed by the testimony of the Curia: "I, the undersigned, attest that from a search made in the records of this Curia, it appears that..."

[*Latin ed. p. 165*]

"Regarding the names of the procurators of the parish and filial churches, and of the altars within them, excluding those with patronage rights and confraternities, from the year 1600, the date to which these records go back, they have always been appointed by the Diocesan authority." - They argue that this custom also applies to collegiate churches. "The names of the procurators of the parish and collegiate churches of the city of Senglea and Vittoriosa, as well as their respective altars and filial churches, have always been appointed, as they are still appointed today, by the Most Reverend Archbishop and Bishop" (testimony of the curia). They state that there are no advocates who claim that anything has been changed in this matter in the two collegiate churches. However, they mention that, in one case (the collegiate church of the City of Vittoriosa), this was done due to a pontifical privilege granted at the very foundation of the church (letter from Pope Pius VII, 1822), which states: "Four of the canons shall be appointed as procurators, two of whom shall be responsible to the Ordinary, and the other two to the Chapter and canons." Regarding the other collegiate church, that of St. Paul's Shipwreck, this was done as a result of an agreement reached to settle a dispute between the Chapter and the Bishop, "whereby every two years, three capable individuals shall be elected by the Archpriest, and three others by the Chapter, who shall then present themselves to the Most Reverend Bishop in order to elect one of the three elected by the Archpriest and one of the three elected by the Chapter." Therefore, according to the advocates, these exceptions do not invalidate the rule, but rather demonstrate that the custom was in force, even if it required an agreement or privilege to

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be modified. Moreover, when the Bishop consented to limit his rights in the collegiate church of St. Paul, he expressly reserved the same rights regarding all other churches, "without any prejudice to the rights that belong to him in any way regarding the election of procurators and other ministers of all other churches in the diocese." Given this general custom, if any church claims to be exempt, it must present a clear title upon which it relies. Therefore, the advocates argue, the collegiate church of Birkirkara must present such a title.

[*Latin ed. p. 166*]

166 From the decrees of the Council, it is clear that they do not merely request that the Bishop's authority be limited, but that it be entirely eliminated in the election of procurators. And they request the most extensive exemption from episcopal jurisdiction in this matter, an exemption that no church, not even the Cathedral itself, possesses. For in the Cathedral, there are three procurators. Of these, one is chosen by the Chapter, another by the Bishop, and the third is named by the vote of both. Here, the lawyers examine the titles presented, by which the canons of Birchirca claim their immunity. And they maintain that these titles are three in number: first, an exemption from the jurisdiction of the Bishop, which Urban VIII granted at the very beginning of the establishment of the Collegiate Church of Birchirca, by a Bull of Urban VIII in the year 1630. Second, a certain agreement, concluded between the archpriest and the Chapter in the previous century, in the year 1716, by which it was stipulated that "the pre-eminent rights concerning only the temporal and economic administration of the aforementioned Collegiate Church, from now on and for all time, would be common and simultaneous between the Chapter on the one hand and the Most Reverend Archpriest on the other." Third, a special custom, which is said to have abolished the general rule: according to which the procurators of the Church are not appointed by the Bishop, but constantly by the Chapter. But these titles, the lawyers argue, do not support the canons of Birchirca. Regarding the first title, the lawyers quickly dismiss it. For the immunity from the jurisdiction of the Bishop, granted at the very beginning of the establishment of the Collegiate Church by Urban VIII, has been declared to have no validity by a Royal decree, stating that "the Apostolic letters are not justified, nor are they to be followed regarding the exemption." Indeed, it is clear that they were obtained through deception and trickery, and "from the very mind of the Pontiff, it appears that he did not intend to grant an exemption, considering it to be very prejudicial to the Ordinary and burdensome to the Cathedral Church, given the short distance between the town and the city" (before Carrillo, on...).

[*Latin ed. p. 167*]

(From Meleto, dated November 16, 1637). From this, it follows that this

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title must be maintained; for if the immunity has ceased, there is no reason why the right of electing procurators should be granted to the Bishop. Regarding the second title, the advocates point out that the interpretation of the chapter is not to be understood as proving that the chapter believes that, if the words "economic administration" are taken broadly, it must be concluded that the entire administration rests with the chapter and the archpriest. In this matter, the chapter would not only have the right to elect procurators, but also to oversee that those elected administer properly, and to collect accounts from them. However, it is confessed that the accounts are collected by the Bishop, not by the chapter. It is also confessed that permission must be requested from the Bishop for extraordinary expenses. Therefore, the advocates infer that "economic administration" cannot be understood so broadly, as the words seem to indicate. Nor should it be understood in such a way as to include the right of electing procurators. And in truth, in the very same year in which the agreement took place (1716), the procurators were not appointed by the chapter, but by the Bishop (see the synoptic table). The same was true in the years immediately following; so that, almost all the procurators until the year 1750 were appointed by the Bishop, not by the chapter, as the advocates state. But it would be contrary to truth if the election of procurators were included in the "economic administration." For the chapter would have known that its right was being violated by the Bishop, and would have immediately, and through a solemn convention, defended that right. Furthermore, the advocates point out that when, in the year 1751, Benedict XIV suppressed the archpriestship by decree, and demanded that the prebendary relinquish the care of souls, which had previously been exercised by the archpriest, he assigned to the prebendary half of the "economic administration" which had previously been borne by the archpriest. And he added: "which has indeed been observed until now" (Apostolic Letter, year 1751). This would be contrary to truth, according to the advocates, if the election of procurators were also understood to be part of the "economic administration." For from the year 1716 to the year 1751, the procurators were never appointed by the chapter, but always by the Bishop.

[*Latin ed. p. 168*]

168. From the decrees of the Council, concerning the meaning of the words "economic governance," the Bishop of Melevita notes: "This has a meaning, which from the year 1716 until today, the chapter of Birchircara has peacefully employed. In the collegiate church of Birchircara, as in all other collegiate churches of the island, for every complaint that is presented to the chapter, for every appeal, for every innovation, for every expense that is intended to be made, whether in the church itself or in its property, for the leasing of the same for festivities and for all other occasions, it is desired to convene all the canons in a general meeting or

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a chapter session, to present them with the subject of the meeting, and to hear and record their decision. Likewise, the chapter is convened when the Bishop, by his own authority, or directed by one of the Sacred Congregations, communicates some letter or order. For example, suppose someone writes to this Sacred Congregation to obtain a leasehold on a building belonging to the church of Birchircara, or to obtain a reduction of pious taxes. This Sacred Congregation usually refers the request to the Ordinary "after hearing those who have an interest." The Ordinary communicates the request to the chapter of Birchircara; this chapter convenes a general meeting or a chapter session, where the chapter discusses the matter, decides, and submits the decision to the Ordinary. Now, in all these general meetings and chapter sessions, the canons of Birchircara, unlike all other chapters and collegiate churches of the diocese, each have one vote, while the *Præpositus* has as many votes as there are canons present."

The speakers argue that, whatever understanding is given to the agreement concerning the divided economic governance, whether between the *Præpositus* and the chapter, the Bishop neither attended the meeting nor approved it. Therefore, the agreement made between them cannot harm or benefit others. From this, it follows, according to the lawyers, that the matter can be brought to a dilemma. For either, before the meeting, the chapter had the right to choose representatives against the Bishop, or it did not. If it did, let it present the title in which that right consists. But if it did not, that right cannot originate from the meeting.

[*Latin ed. p. 169*]

MELEVITANA 169 The following words, as stated in the convention "with the aforementioned stipulations and regarding the aforementioned matters, by the eminent and reverend Bishop, and no other," demonstrate, according to the lawyers, that the right of the Bishop had not been prejudiced. Indeed, certain prerogatives, which the Bishop possessed at that time, were introduced by virtue of this very right. By this right, the Bishop, before the year 1716, most frequently appointed procurators. With these points established regarding the third argument, namely, custom, the lawyers begin their discussion. They note that a special custom does not derogate from a general custom, unless such a special custom is fully proven. Otherwise, one must adhere to the general custom. However, according to the lawyers, the custom invoked by the Chapter has not been fully proven. In truth, before the year 1716, the Birchircarese Chapter never appointed procurators. For it does not present a single instance of an appointment made by itself; whereas, on the contrary, the Bishop recalls several that he himself made. Moreover, the Chapter was so far removed from interfering in the administration of the Church that it did not even have the right to receive emoluments arising from festivals celebrated in the Church. These were to be divided equally among the local clergy,

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which the lawyers endeavor to prove from a document given to the Sacred Congregation of Councils in 1701, and from a decision of the Roman Rota before Caprara on April 7, 1704. In the year 1716, the aforementioned convention took place; but, the defenders note, the Chapter, in a certain agreement with the Confraternities (February 26, 1762), admitted that, up to the year 1750, procurators had been appointed by the Bishop, but adds that it permitted this, because it was in dispute with the Archpriest: and it was necessary that neither of the disputants should choose. However, this does not seem to be properly proven to the lawyers, and they state that, even if it were proven, it would be true that the Chapter did not possess the right to appoint procurators against the Bishop during those years. From the year 1751 to the year 1783, the lawyers admit that the appointments of procurators were made by the Chapter and the Archpriest; and that the Bishops merely confirmed them. But they state that...

[*Latin ed. p. 170*]

From a decree of the Holy Council, based on certain information recorded in the year 1792, and from numerous testimonies included in the summary of the first proposition, it is often the case that, while tolerating it, the Bishops have preserved their rights for the future. "Without prejudice to the rights which belong to us and to our successors, the election made in the person of... we confirm and approve by our ordinary authority." From the year 1783 until our time, the lawyers state, the Bishop has frequently and indiscriminately appointed advocates, together with the Chapter (see the synoptic table). Often, for this task, he appointed canons of the same Church; who never issued a protest, but accepted the appointment. From this, it follows, according to the lawyers, that this custom has not prevailed even in recent times. Therefore, the lawyers conclude, the custom either favors neither party, or it favors the Bishop. For the Chapter never appointed advocates without the Bishop legitimately protesting. The Bishop appointed advocates, while the Chapter did not protest. In the period closest to our time, the lawyers assert, the Bishop appointed advocates more frequently than the Chapter. For from the year 1716 to the year 1890, there are counted 633 appointments. Of these, 318 were made by the Chapter, and 315 by the Bishop. If we remove those appointments which the Chapter made, and which the Bishop confirmed with the reservation of his rights; if we remove those which the Bishop did not confirm, or which seem doubtful; then, the lawyers argue, the number of appointments made by the Bishop far exceeds the number of appointments made by the Chapter. Regarding the second point in question, the lawyers believe that there is nothing to dispute. For they note that the resolution of this type of doubt has been favorable to the Bishop, by a rescript of April 29, 1895, although the initial request for a decision was granted to the Chapter. Today, however, they hope that even in the first question,

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the Bishop's rights will be solemnly recognized. Therefore, they conclude their argument by recounting the inconveniences that will arise for the governance of the diocese from the right of election being attributed to the Chapter.

[*Latin ed. p. 171*]

In Melevitana 171, the procurator of the Chapter argues that the matter does not concern the goods of the Chapter's refectory, as noted by the Bishop: "I state, for the best clarification of the facts, that in the present case, we are not dealing with the Chapter's refectory, nor with the personnel attached to it, nor with those attached to the choir of that illustrious collegiate church..."

Thereafter, the Chapter recalls that, in a previous judgment, the Chapter members had demonstrated, according to common law, that the administration of their Church's affairs belonged to them, just as the administration of benefices belongs to their beneficiaries. Thus, the Council of Trent, in Session 22, chapter 9, on Reform, decreed that administrators, both ecclesiastical and lay, of any church, even a cathedral, hospital, or confraternity, must annually render an account of their administration to the Ordinary. Furthermore, the Chapter members believe that they have amply demonstrated their right to suffrage, and that in the first instance as well, it was proven that there had never been discord between the Chapter and the Bishop regarding the temporal administration of the collegiate church, and that the Bishop, in fact, was often concerned with resolving disputes between the Chapter and others.

Benedict XIV recounts, "Serious disputes were introduced between the perpetual vicariate and the Chapter of the collegiate church regarding precedence and parochial rights, until the Bishop of Melite acted as a mediator in the year 1687. The result of this mediation was a settlement confirmed in the year 1692 by the Most Reverend Memory of Innocent X; by virtue of which, the perpetual vicariate was suppressed, and an archpresbyterate was established, so that this, together with the Chapter, would administer those matters that expressly did not pertain to the care of souls."

Therefore, Benedict XIV states, "It is established that 'the goods belonged to the aforementioned archpresbyter: and the economic administration of the aforementioned collegiate church was assigned, in one half, to the aforementioned archpresbyter, and in the other half, to the Chapter and canons.'"

The Bishop of Melevitana, following the will of Benedict XIV, "and so, from the beginning, procurators were elected by the Chapter, in half, FOR

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THE DEFENSE OF THE CHAPTER. EX."

[*Latin ed. p. 172*]

172 FROM THE DECREE OF THE COUNCIL, concerning the duties of the parish priest and other matters, as is demonstrated by the aforementioned bull of suppression, the agreement, the mandate, and other electoral acts of the chapter, to which full reference is made. Furthermore, the Melevitan bishops, as the advocate states, recognized the right of the chapter to appoint its own procurators. Indeed, in the year 1762, a dispute arose between the Confraternity of the Most Holy Rosary and the Chapter of the Collegiate Church of Birchircarensis regarding the election of the procurator of that confraternity, and an agreement was reached which stipulated "that the procurators elected in said confraternity must, within eight days from the day of the election, obtain confirmation from the Most Reverend Bishop; and if they are not confirmed, or if they do not accept the appointment, then the aforementioned twelve senior brothers must make another appointment of six brothers to be elected as above by the Venerable Chapter, and no other way." Furthermore, the advocate states that documents were presented in the previous action which demonstrate that elections were carried out by the Chapter from the year 1755 to 1895. Because the Bishop, in letters dated February 22, 1897, addressed to the Sacred Congregation, asserts 1) that the right to elect procurators is not included in the "economic administration," and 2) that he falsely claimed that the canons peacefully possessed the right to elect procurators, the advocate notes that, based on the evidence presented in the first instance, the Bishop was far from the truth, stating this. If, as has been reported, the dispute was between the Chapter and the Archpriest regarding the election of procurators, who were chosen by the Archpriest and the people from time immemorial, and if, in order to resolve the dispute, it was agreed, with the approval of the Bishop, that the "economic administration" should be divided between the Archpriest and the Chapter, then it is clear that the election of procurators is also included within the scope of the "economic administration." Therefore, Benedict XIV, in *Cum Omnia*, calls for the mandate concerning the maintenance of [the right] to be made clear everywhere.

[*Latin ed. p. 173*]

In the year 173, the Archpriest obtained the see. In the year 1740, a dispute arose between him and the Chapter concerning the administration of the goods of the Collegiate Church of Birchirca. In this mandate concerning the maintenance of the institution, it is written: "Anthony Rufus, Apostolic Protonotary, etc. Let all and each know that... they... have been summoned... to ensure that the DD. [Dominus, Lord] are maintained in quiet and peaceful possession... and to exercise, jointly and simultaneously with the Chapter, the economic and temporal governance of the Collegiate

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Church and sacristy, to administer the goods, to appoint administrators of the same Church together with the aforementioned Chapter, and to perform all other necessary tasks. Furthermore, the subsidiary churches and their goods are to be administered privately, and administrators are to be appointed in them, and other matters are to be attended to." This matter concerning the election of administrators is mentioned in the Concordat of 1716, as evidenced by a report presented by the Chapter of Birchirca to the Bishop of Melit in 1792. Based on this report, the Bishop of Melit confirmed and approved the election made by the Chapter. However, the advocate continues, not only did the Canons elect administrators before the year 1751, but the Bishops of Melit themselves recognized this right to the Chapter. Indeed, the Concordat of 1716, approved by the Bishop of Melit, Canaves, concerned the election of administrators, and a dispute arose between the Archpriest and the Chapter; in 1762, the Bishop of Melit, Rull, approved an agreement between the Archpriest and the Chapter concerning the election of the administrators of the Brotherhood of the Holy Rosary; the Bishop of Melit, Alpheran, in 1753, recognized the Chapter's right to elect administrators and all officials and ministers of the Church; the Bishop, Sabini, in 1792, confirmed the administrators elected by the Chapter; and similarly, in 1875, the Bishop, Xilera. Finally, the advocate strives to refute the objections raised by the Bishop; and, first of all, he admits that the Bishops have, on more than one occasion, elected administrators as mediators between the Archpriest and the Chapter, as was the case in 1716, through the action of the Bishop of Melit, Canaves, when discord had arisen.

[*Latin ed. p. 174*]

174 FROM the Decrees of the Holy General Council, there is found among the Chapters and Archpriests the following: "Pending the judgment, the elections of the Procurators of the aforementioned Confraternities took place, carried out by the Most Reverend Bishop, and sometimes by the Brothers, so that no prejudice would be caused to the Chapter and the Archpriest in their respective claims." Nevertheless, the advocate insists that the Bishop carried out these elections as if by his own right, and he presents several confirmations of elections, as if they were documents of his power to elect procurators, which the advocate proves with some examples. Furthermore, he notes that of the 314 elections claimed to have been carried out by the Bishops of Melevita, almost 180 pertain to rural and filial churches and are not relevant to our case. On the contrary, the advocate states that documents of elections of the Procurators of the Lampad Confraternities, of buildings, have been presented by the Chapter, elections which took place from the year 1736 to the year 1895. To these are now added the elections of the procurators of the confraternities, carried out by the Chapter and confirmed by the Bishop in the years 1752 to 1811.

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Because the Bishop further states that the Bishops of Melevita confirmed these elections with the formula: "elected and confirmed, always reserving the preeminential right of the Bishop, and in no other way," the advocate responds that the Bishops rarely used this formula; and that they began to use it when the Collegiate Church lost the privilege of exemption from the jurisdiction of the Bishop, and that the Bishops granted themselves the authority to confirm, due to the right of preeminence in the Collegiate Church of Birchircare; so that Bishop Canaves used this power, granting the right to elect procurators partly to the Chapter, and partly to the Archpriest. Turning to another question, which is debated concerning whether the procurators have the right to affix edicts to contracts of emphyteusis, the advocate notes that this is not a matter of the right to administer, but of a certain solemnity or preparatory act to contracts of emphyteusis; and this act, being accessory, seems to follow, by itself, the principal right to administer.

[*Latin ed. p. 175*]

MALTA 175 "which pertains to the procurators. However, the curia claims the right to affix edicts to itself, notes the procurator; although the records of the Collegiate Church of Birgu contain documents to the contrary. Therefore, from these documents presented as proof, the Chapter of Birgu concludes that the aforementioned goods were given in emphyteusis by its procurators, without the intervention of the Episcopal Curia, on several occasions from the year 1718 to the year 1891. However, the Bishop claims a customary right and arrogates it to himself, and cites four emphyteutic contracts, which he affirms were initiated by the Curia without the intervention of the Chapter. But the advocate replies that two of these contracts refer to goods belonging to the chapter's table, a third to goods belonging to the confraternity of St. Andrew, and a fourth to goods belonging to the V. Lampada (that is, the workshop). And with regard to the contracts that refer to the goods of the chapter's table, he notes that the Bishop himself, in his information and vote, wrote: "I believe that, for a better clarification of the facts, we are not dealing in the present case with the Chapter's table, nor with the personnel attached to it, nor with the Chapter and those attached to its choir of that illustrious collegiate church..." Therefore, from these contracts, it would be clearly demonstrated that the Bishop does not claim the right to initiate an emphyteusis of the goods of the chapter's church without the intervention of the same Chapter. In the specific case of the first instance, namely regarding the "Clausura ta Bir ilghad," he notes that in the diocese of Malta, emphyteutic contracts for 99 years are usually initiated. Indeed, in the year 1840, the aforementioned "Clausura" was leased by the Chapter of Birgu, and not by the Bishop, the advocate insists. Regarding the second case, namely the "Clausura" that belongs to the Confraternity of St. Andrew, he notes that

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this "Clausura" is not called "ta Iorri" or "ta Salib," as the Bishop calls it in the aforementioned document, page 7, first instance, but "ta Giembi," as is evident from the books of the aforementioned Confraternity. He adds that this exclusively pertains to the aforementioned confraternity, and that in the year 1806, this "Clausura" was leased by...

[*Latin ed. p. 176*]

176 FROM THE HOLY COUNCIL, it has been determined that the property in question was held by the Seph Lammut family. Therefore, it appears incredible to the advocate that the Bishop granted the property to them in perpetuity in the year 1780, considering that from the year 1780 to the year 1808, only 28 years have passed, and perpetual leases generally begin for a period of at least 99 years. Regarding the third case, namely, the enclosure at Barriera belonging to the Chapter of Birchircare, the advocate states that this enclosure was certainly not granted in perpetuity by the Bishop in the year 1822. Indeed, the Chapter of Birchircare, on January 11, 1815, entrusted the Canon Aquilina, as their procurator, to inquire from an expert whether it would be advantageous or not to grant the aforementioned enclosure in perpetuity. Regarding the fourth case, the advocate contends that it is falsely asserted by the Bishop that offerings were made to the Curia, while, on the other hand, the Bishop admits that the Chapter granted that land in perpetuity in the year 1724. With these points noted, the following questions were proposed for consideration: I. Whether one should adhere to or depart from the decisions made in the first question in this case. II. Whether one should adhere to or depart from the decisions made in the second question in this case.

RESOLUTION. The Holy Congregation, after deliberation on February 17, 1900, decided to respond: Regarding I and II, let all parties agree as proposed; however, let the alternative, as mentioned in article 3, be permanent.

CAUSES FOLLOWED. On June 23, 1900, the aforementioned question was again raised. The Holy Congregation responded: Regarding I and II, adhere to the decisions made on April 27, 1895. This response can be found in Volume 28, page 137 of these proceedings.

[*Latin ed. p. 177*]

177 FROM THE HOLY CONGREGATION OF BISHOPS AND REGULAR CANONS OF SAINT MARK AND BISINIANO. Credited. April 6, 1900. By summary of petitions. Father Hyacinth, a religious of the Order of Capuchins, and also a General Definitor of the same Order, desiring to establish a new monastery and an attached church in the town of Acri, in the diocese of Cusenza, dedicated to the Blessed Angel of the same town, obtained the Apostolic Blessing for the undertaking of this new work and for the assistance to be given to those who would contribute, and in the year 1894, he began the construction, using, in order to achieve economy in

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expenses, only the direction of an architect and the work of a master mason. Since this economy was not achieved, as the expenses in the year 1896 already reached a considerable sum of 2800 livres, he deemed it better, even with the architect's advice, to entrust the begun construction to a certain Genasio Fontana. However, when this man was unable to complete the construction due to lack of funds, its continuation, after a payment of 4000 livres to the constructor Fontana as a guarantee of good completion, was requested by Father Hyacinth from the contractors Calderai and Lazzarini. The contractors Calderai and Lazzarini completed the work within two years, namely on October 7, 1897. However, the expenses, which were foreseen in 156,000 livres for the completion of the building, exceeded this sum, and, with the consent of Father Hyacinth himself, were increased to 222,000 livres. During the construction of the building, the sum of 70,000 livres was paid to the contractors Calderai and Lazzarini; hence, their remaining debt amounted to 152,000 livres, on which sum Father Hyacinth obligated himself to pay annual interest at the rate of five for every one hundred. From the year 1897 until the year 1899, the contractor Calderai...

[*Latin ed. p. 178*]

178 From the Sacred Congregation of Bishops and Regulars, the sum of 10,000 livres had been received from Lazzarini, which was almost entirely used to extinguish the outstanding debt of interest. This aforementioned sum was delivered to them, 7,000 livres by Father Fulgentio, the General Procurator of the Order of the Capuchins, and the remainder was sent directly by Father Hyacinth himself. When it was discovered that Father Hyacinth had been afflicted by an apoplectic illness, and that he died on October 22, 1899, the members of the construction company immediately approached the Minister General of the Order, Father Bernard d'Adermatt, who declared that he could not be held responsible for the constructions carried out by Father Hyacinth. Therefore, upon his death, as mentioned above, they appealed to the Sacred Congregation of Bishops and Regulars, requesting that the Order of the Capuchins be compelled to compensate them.

A Synopsis of the Arguments:

FOR THE MEMBERS OF THE CALDERAI AND LAZZARINI COMPANIES:

According to the sanctions of canonical law, it is observed that a religious cannot possess anything for himself, but only for the order: it is a well-known saying that whatever a monk acquires, the monastery acquires. Therefore, contracts and the construction of churches and convents, even if carried out by an individual religious, are considered to be made in the name of the order, since they are for the benefit of the order. However, if we

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examine the present civil laws, it constitutes a certain necessity. For under the current law, religious orders in Italy lack legal personality. Therefore, for the sake of civil representation, religious are obliged to act as individuals, and those who contract with them are considered to be contracting with the order. Therefore, it is not unjust, the members of the Calderai and Lazzarini companies conclude, that they believed the Order of the Capuchins to be obligated, when they received verbal promises from Father Hyacinth regarding the prosecution and completion of the begun construction. This is made clearer, if, according to the plaintiffs, certain facts in the present controversy are carefully examined. The publication of a pamphlet, knowingly made by the Order, entitled "Benediction of the Pope," which contained drawings and a description of the new construction,

[*Latin ed. p. 179*]

ST. MARK AND BISIGNANO. 179. A contract was drawn up by Father Hyacinth, acting as General Definitor, and certain sums were paid to the builders in the General House of the Order by Father Fulgentius, the General Definitor. Letters of commendation were written by the General Minister to the architect Quercioli. Several declarations by Father Hyacinth, stating that he was not acting as a private individual, but was constructing the building for the benefit of the Order, are presented by the associates Calderai and Lazzarini, not only to demonstrate their own good faith, but also to prove that the Order had become liable in this matter. To the observation of the General Procurator, that the General Minister had never consented to the construction, nor approved of it, they reply that such consent and approval were implicitly present. The superiors of the Order knew perfectly well that the building was being constructed by an individual subject to them, they were not unaware that Father Hyacinth could not serve as a private individual, but only the religious family of which he was a member: why, therefore, did the superiors of the Order not denounce this? Therefore, in the circumstances presented, silence should rightly be interpreted as consent. Finally, in order to better establish their right, namely that Father Hyacinth acted as representing the Order, they adduce the fact that certain transactions were made by Father Hyacinth shortly before his death, with the favor of two religious Capuchins in Rome, of whose inheritances he was the heir. Indeed, this demonstrates the practical and necessary system followed by the Order, according to the current laws, of possessing, or acquiring, not directly, but through religious as private individuals: and this path, indeed, was followed by the Order in the construction of the convent and church in the town of Acri. WITH THE FAVOR OF THE CAPUCHIN ORDER. On the other hand, the General Procurator maintains that neither the General Minister nor the General Curia gave any consent to the construction of the convent and church in the town of Acri. If the construction was begun by Father Hyacinth with a prior Apostolic

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blessing, the General Minister, who was then outside of Italy, was unaware of this.

[*Latin ed. p. 180*]

180 While the Superior General and the Regular Chapter were present, and Father Brunone a Vinay, the Order's Commissary, was opposing, no determination of the General Definitorium is valid to prove the Order's consent. The Order's opposition was evident and remained, because the matter concerned an incongruous and excessively expensive undertaking. Therefore, the General Procurator concludes that the construction begun is perilous and undertaken solely by Father Hyacinth. Furthermore, the General Procurator continues, it cannot be admitted that, with the passage of time, the Order has approved the construction of the building. For the contract with the contractors Calderai and Lazzarini was signed only by Father Hyacinth; the plans made by the Architects, the notes of expenses, the accounts, were never presented for the approval of the Minister General; but all was carried out directly by the contractors Calderai and Lazzarini with Father Hyacinth, the sole supervisor of the building. It is true that certain sums were paid by Father Fulgentius, the General Definitor of the Order, but by the commission of Father Hyacinth, who sent the funds; and the General Procurator proves this by citing letters from Father Hyacinth himself. Moreover, concerning five promissory notes, each of which carried an obligation for ten thousand livres, he observes that these were signed only by Father Hyacinth and without the permission of the Superiors of the Order; therefore, the Order is not obligated to answer for them. To the contractors Calderai and Lazzarini, who insist that they acted in good faith, and who claim that the Order is obligated because the Minister General did not forbid Father Hyacinth from undertaking such works, the General Procurator replies as follows: Firstly, their good faith does not in any way suffice, because they should have been more cautious, since, being in Romae, it was easy to consult the Minister General about this matter; and this all the more so, because they often had doubts about Father Hyacinth's solvency, and no mortgage was registered on his assets. Therefore, why did they not consult the Superior of the Order in these circumstances? Regarding the second objection, the Procurator easily refutes it, noting that Father Hyacinth was acting under the blessing of the Pope.

[*Latin ed. p. 181*]

ST. MARK AND BISIGNANO. 181 directly obtained his dismissal from the Order for this work, and acted independently in carrying it out. On the other hand, since the contract, stipulation, and construction works had been concealed from the General Minister, it is not surprising that he was unable to prevent them. These are the principal reasons presented by the Reverend Procurator to absolve the Order from its obligation towards the

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contractors Calderai and Lazzarini for the completed construction of the convent and annexed church in Acre. It is now necessary to add a few words of the esteemed Protector of the Order of Capuchins to this delicate matter. After examining the civil law, he believes that the Order cannot in any way be compelled to respond for the completed works, because there is a lack of a legal act by which the General Minister of the Order or his Definitorium delegated Father Hyacinth of Bellomont to undertake and carry out the aforementioned works. However, a different judgment must be made when considering canonical equity, because the contractors Calderai and Lazzarini acted in the utmost good faith and with due deference towards the Order; therefore, it would seem unjust to inflict an economic loss upon them by denying the requested payment; furthermore, through said payment, the Order acquires stable possession of a property, the value of which amounts to approximately 500,000 lire; and a forced liquidation would bring about, besides an enormous scandal, a great economic loss to the Province of Calabria of the Capuchins. In both cases, the purpose was to resolve the following question: Whether and in what way the Order of Capuchins should be considered obligated towards the contractors Calderai and Lazzarini in this case. RESOLUTION. The Sacred Congregation of Bishops and Regulars, in its general meeting on April 6, 1900, after carefully considering all matters, responded: It is pleasing to reach an agreement. ●OCP B — i

[*Latin ed. p. 182*]

182 FROM THE HOLY CONGREGATION OF RITES OF BRESCIA. The cult of Confirmation has been celebrated from time immemorial in honor of the Servant of God, Obitio, Confessor of Brescia, a Saint and Blessed. It is read that, concerning many of the Servants of God also included in the list of Saints, that after military service and adverse events, with the help of divine grace, they were drawn away from military life to follow Christ, their leader and teacher, and were converted with all their heart to the highest degree of sanctity; and it is said that this also happened to the Servant of God, Obitio, a tonsured man and soldier of Brescia, a Saint and Blessed. He was born in the town of Niardo on December 6th, after the year 1100, and had a noble and wealthy father named Graziadio; even as a young man, he renounced the governance of the entire Valley of Camonica. Having been assigned to military service and fighting in a battle between the people of Brescia and Bergamo near the river Ollium, while, having received a wound, he lay gravely among a pile of corpses, he immediately recognized that he was saved and unharmed from the danger of death. Moved by this heavenly favor, and struck with great fear by the torments of hell which were before his eyes, he began a new way of life, despite the contrary opinions of his wife and family. Still living at home, he pleased God and men with works of piety and charity. He became a pilgrim to the

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various monasteries of the aforementioned valley, in order to learn and imitate the ways of the penitents, and he also visited Luke, venerating the Crucifix, which was marked by miracles. Having fulfilled the desires of his heart and distributed his ample patrimony to the poor, with the consent of his wife, he went to the Monastery of Brescia of Saint Julia, and there, in the manner of hermits, he offered himself as an oblate and servant to the nuns, clearly demonstrating excellent examples of virtues, with God, as it is said, working marvelously and confirming with signs. Finally, in the year 1204, he was seized by a deadly illness, and he patiently endured his sufferings, and in his final agony, lying prostrate on the ground, as he had foretold, he peacefully died in the Lord in the month of December. It is said that at his death, and from the sound of sacred music coming from the top of the towers, without anyone striking them, and a heavenly angelic song was heard by many of those present, even among the aforementioned nuns. Meanwhile, the remains of the Servant of God were carried with great pomp, and after the funeral ceremonies were completed, they were placed in the Church.

[*Latin ed. p. 183*]

From the Sacred Rituals, section 183: The remains of Saint Julia are venerated, and the clergy and people gather there to implore assistance and to give thanks for the benefits received. As the devotion and veneration of the faithful towards her tomb increased day by day, her body was transferred to a more suitable place, namely to the main altar of the same church, and it remained there until the year 1798, when the monastery of Saint Julia was suppressed, and to prevent it from being profaned by the impious, the Bishop of Brescia granted the inhabitants of Niardi the gift of publicly displaying that sacred relic in the parish church, together with the relics that had been granted there since the year 1653, so that they might venerate it and have their prayers answered. This public and ecclesiastical veneration of the Servant of God has been practiced for a long time, even before the time of Urban, and has continued without interruption, and there are many arguments drawn from authentic documents, from ancient writers, and from numerous trustworthy witnesses, both concerning the title of Saint or Blessed, and concerning liturgical prayers, the blessing of water, as well as the feast day with its Office and Mass celebrated according to the twofold rite in her honor, and concerning images adorned with rays and a laurel wreath, and relics exposed to public veneration, all known, acknowledged, and approved by the Ordinary Bishops. However, this same veneration, accompanied by the fame of her sanctity of life, virtues, and miracles, had not yet been authentically recognized and approved by the Apostolic See. Deeply concerned about this matter, the Most Reverend Lord James Corna Pellegrini, Bishop of Brescia, in recent years, through a delegated judge, instituted an inquiry regarding this veneration, and issued a favorable judg-

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ment. The acts of the Brescia court were presented to the Congregation of Sacred Rites, and the Most Reverend Lord Peter Crostarosa, Canon of the Patriarchal Basilica of the Liberian, and Postulator of this cause, on behalf of the Most Reverend Bishop and the entire clergy and people of the diocese of Brescia, and especially of Niardi, the place of Saint Julia's nativity, humbly requested the Holy See to confirm this judgment. Therefore, from the Eminent and Reverend Lord Cardinal Raphael Pierotti, the Relator of this cause, in the meeting of the Congregation of Sacred Rites, signed on the specified day, after gathering at the Vatican, the following question was proposed for discussion: Whether the judgment of the delegated judge from the Most Reverend Bishop of Brescia, regarding the veneration practiced from time immemorial for the Servant of God, Julia, Confessor of Brescia, or regarding the exception from the decrees of the Blessed Urban VIII, should be confirmed in this case and for the purpose in question? Furthermore, the three Eminent and Reverend Prelates presiding over the Sacred Rites, after the aforementioned...

[*Latin ed. p. 184*]

184 From the Sacred Congregation of Rites, after careful consideration of all matters, and having also heard the voice and written opinion of the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, it was deemed necessary to respond: Affirmative, or to confirm the opinion. July 10, 1900. Concerning all of the above, which were presented to His Most Holy Lord Leo XIII, Pope, by the undersigned Cardinal, Pro-Prefect of the Sacred Congregation of Rites, His Holiness approved and confirmed the response of the aforementioned Sacred Congregation, on the twenty-third day of the same month and year.

C. CARD. S. ALOISI - MASELLA, Pro-Datary, Reverend Cardinal, Pro-Prefect.

L. S. f DIOMEDES PANICI, Sacred Roman Church Secretary.

PRAGUE, regarding certain customs.

The Most Reverend Leo de Skrbensky, Archbishop of Prague, humbly presented the following to the Sacred Congregation of Rites, for appropriate declaration:

Indeed:

1. According to the Rescript of the Sacred Congregation of Rites, dated November 17, 1864, the province of Prague was granted the following: "1. That, according to the concession granted to the Kingdom of Poland on August 22, 1744, the custom may be maintained throughout Bohemia, whereby, from the beginning of the Holy Advent until December 23rd, Mass is celebrated at dawn in each church with the singing of the Mass: *Rorate coeli desuper*, which Mass is celebrated in smaller churches without singing... And since, on the feast of the Immaculate Conception

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and throughout the Octave thereof, the Mass *Rorate* is customarily replaced by the Mass of the Virgin Mary, conceived without original sin; this Mass *Rorate* is excluded only on feasts of the first class, if they should occur."

2. "That in the prayer *A cunctis*, when it is to be said, the names of the Most Blessed Adalbert, E.M., and Vitus, M., patrons of the Kingdom, may be included, whose feasts enjoy the rite of the first class with an Octave, although they impose no obligation in this regard."

3. "That the Most Blessed Procopius, Abbot, Cyril and Methodius, Bishops, and Ludmilla, M., may continue to be venerated as patrons of the Kingdom, in whose solemnity the Octave has been suppressed, no other."

[*Latin ed. p. 185*]

From the Sacred Congregation of Rites, number 185, for the reason that the number of Octaves had increased. Therefore, on the feast of these same Saints, the Creed must be added to the Mass, and all must be named in the Prayer *A cunctis*. With these things stated, the same Reverend Archbishop inquired:

I. On the 7th of December, is it permissible to say, in place of the votive Mass, the Mass of the Vigil of the Immaculate Conception, at least in smaller churches?

II. Since in Bohemia the principal patrons of the Kingdom are the Saints Cyril, Methodius, Vitus, Wenceslaus, Albert, John the Baptist, Procopius, and Ludmilla, in what order are they named in the official votive prayer of the Saints of Bohemia?

III. Whether the aforementioned Saints, as patrons, in churches which have a patron saint or a titular saint, may or must be included in the prayer *A cunctis*, from the beginning. And, in order to obtain a definitive answer to either side of the doubt, he requested:

IV. Whether the following interpolation is correct in the prayer *A cunctis*: "... blessed Apostles Peter and Paul, and blessed Cyril, Methodius, Vitus, Wenceslaus, Albert, John, Procopius, Ludmilla, and blessed N. and all the Saints?"

And the Sacred Congregation, after considering the report of the undersigned Secretary, and after obtaining the opinion of the liturgical commission and carefully deliberating, decided to respond as follows:

To I: Affirmative, if the semi-dual rite permits.

To II: The order of the litanies must be observed.

To III: Affirmative, to the first part; negative, to the second.

To IV: Provision has been made with regard to the second point, and the name of the patron saint or the titular saint of the church should be placed after the names of the blessed Apostles Peter and Paul.

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And thus it was written on the 2nd of May, 1900.

C. CARD. S. ALOISI - MASELLA, Pro-Datary of the Sacred Congregation.

L. & S. DIOMEDES PANICI, Sacred Roman College, Secretary.

[*Latin ed. p. 186*]

186 FROM SACRED RITUAL QUESTIONS concerning the use of the biretta by regular priests, and concerning the washing of hands of the Bishop celebrating. I. Whether regular priests, who use a small cap and skullcap, may use the biretta while proceeding to the altar to celebrate, and upon returning to the sacristy, especially if the rule and custom do not prohibit it? The Sacred Congregation, after hearing the opinion of the Liturgical Commission, decided: Affirmative. II. Whether the washing of hands of the Bishop celebrating, as prescribed in the Ceremonial of Bishops, Book I, chapter X, paragraph 11, and chapter XXIX, paragraph 10, before and during the Mass, should also be performed after the Mass? The Sacred Congregation, after a careful consideration of the opinion of the Liturgical Commission, decided: Negative. From the Congress, on May 15, 1900. PHILIPPUS D I FAVA, with the substitutes PARENTIN, and POLEN, concerning the question regarding the feast of St. Thomas of Canterbury. The priest, the calendarist of the diocese of Parentin, and Polen, with the consent of their Reverend Bishop, humbly presented the following question to the Congregation of Sacred Rites: namely: If the day following the feast of St. Thomas, Bishop and Martyr, is a Tuesday, should the Office with Mass of the Octave of the Nativity be said? And the Sacred Congregation responded: If the feast of St. Thomas of Canterbury falls on a Sunday within the Octave of the Nativity of the Lord, then the immediately following day is, according to the universal Calendar of the Church, a day within the Octave of the Nativity of the Lord. Furthermore, both the Breviary and the Missal clearly indicate how the Office and Mass should be celebrated on the day following the Octave of the Nativity, whether that day falls on a Saturday or a Tuesday, so that all doubt is excluded. And thus it responded on May 29, 1900. C. CARD. S. ALOISI - MASELLA, Pro-Datary of the R.C., Pro-Prefect. L. * S. DIOMEDES PANICI, S.R.C., Secretary.

[*Latin ed. p. 187*]

FROM THE SACRED RITUALS 187, URGELL, various doubts. The present master of ceremonies of the cathedral church of Urgel and editor of the calendar of the same diocese, with the consent of his Most Reverend and Most Reverend Lord Cardinal Bishop, humbly submits the following doubts to the Congregation of Sacred Rites: namely:

I. According to the Decree in *Titinen.* (4005) dated January 13, 1899, paragraphs 1 and 2, the baptismal water must be blessed on Holy Saturday

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and on the eve of Pentecost in parish churches and also in filial churches which legitimately possess a sacred font, and this blessing must be performed completely in each church. Therefore, the question arises: how should a parish priest act who, due to a lack of clergy, governs two parishes, or has a filial church with a baptismal font by right, and finds no priest to whom he can entrust this aforementioned blessing?

II. 1. The thurification of the Most Holy Sacrament publicly exposed, and of the Canons, must be performed with a double swing in each direction, according to the decrees of St. Mark (SUO) dated March 22, 1869, paragraphs XX, and Minoricelli (4048) dated November 24, 1899, paragraphs I-X. Therefore, the question arises: whether the same should be observed in the thurification of the altar cross, of the sacred images, of the book of Gospels before the reading of the Gospel in the solemn Mass, of the Bishop, the celebrant, the ministers, the benefactors, and others of the choir and altar, except for those who are not individually incensed?

2. Must the swings be performed with a double swing in the thurification of the altar, and in the solemn blessing of the candles, ashes, and palms?

III. Should the *Exultet* be sung towards the north in the solemn function of Holy Saturday, as is done during the reading of the Gospel; or should it be sung towards the celebrant?

IV. From the authentic collection of decrees of the S.R.C., the Decree in *Santanderien* dated January 26, 1793, paragraph XVII, is quoted, in which it was stipulated that, in Spain, the feast of St. Lawrence the martyr coinciding with the feasts of St. Justus and the Blessed Shepherd, the Vespers of the second class must be celebrated in their entirety with the commemoration of the aforementioned martyrs. Therefore, the question arises: whether this should be observed, or should the Vespers in this case be shortened?

V. 1. Are the Deacon and Subdeacon obliged to conform to the Celebrant whenever he makes the sign of the cross or bows, while he is singing or speaking aloud, or in a subdued voice in the Mass?

[*Latin ed. p. 188*]

188. According to the Sacred Rites, as indicated by the rubric, which, I say, does not pertain to the Secret, but rather to the Confession, the Introit, the Gloria and the Creed, the Epistle and the Gradual, the Gospel, the Sanctus and Benedictus, except when the celebrant recites the Confiteor Deo, and also except for the Subdeacon, who holds the paten, at the Benedictus?

2. When the celebrant is offering the solemn Mass on the Sunday of Palms, while reading the words: "In nomine Iesu, all kneel," etc., and: "He gave up the ghost" (and similar phrases in other Masses), should he kneel; or can he proceed without kneeling, until the aforementioned words are sung by the Subdeacon or Deacon?

V. In churches where the choir alternates with the clergy, can the prac-

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tice be followed, in the sprinkling of the blessed water, the thurification, and the kiss of peace, during Mass, according to the norms prescribed by the Decrees in Molin, (3059), dated 12 September 1857, addressed to the Most Reverend, and of S. Iacobi de Chile (3216), dated 20 August 1870; or rather, should the Decree in Argentina (973), dated 14 November 1684, be observed?

VI. When the Bishop is about to celebrate a Pontifical Mass, are the Dignitaries and Canons obligated to, at the First Entrance into the choir (or the Sixth, on Feria V in the Cenacle, and on Feria VI in Parasceve), approach the Bishop's stall and escort him to the cathedral church?

And the Sacred Congregation of Rites, after considering the report of the aforementioned Secretary, and the unanimous vote of the liturgical commission, having carefully deliberated, responded as follows:

I. If there is a true necessity due to the absence of a priest, about which the parish priest is burdened with knowledge, then the same parish priest should bring blessed water from the principal parish to the other.

II. Regarding the first part of the questions, the Decrees should be observed; regarding the rest, and the second question, custom should be observed.

III. Affirmative, according to the norm of the questions, unless it is sung in the ambo, and regarding the second question, provision has been made in the preceding.

IV. Negative, regarding the first part; affirmative, regarding the second.

V. Affirmative, regarding the first question, and regarding the second question, negative, regarding the first part; affirmative, regarding the other.

VI. Affirmative, regarding either part, as it is customary in the churches.

[*Latin ed. p. 189*]

FROM THE SACRED CONGREGATION OF RITES 189 Ad VII. Affirmative, according to the Ceremonial Decrees. And thus it was written, on May 29, 1900. C. CARD. S. OF BISHOPS and ALOISI-MASELLA, Pro-Datary. R. C. Pro-Prefect. L. © S. DIOMEDES PANICI, S. R. C. Secretary. OF SAINT JAMES OF VENEZUELA; it is doubted whether a prayer for the deceased can be added to the prayer "Deus, qui nobis," and whether a Mass for the dead can be celebrated during the exposition of the Most Holy Sacrament. The present Archbishop of Saint James of Venezuela presented the following questions to the Sacred Congregation: I. Can a prayer for the deceased, for whose relief the sacred rite has been performed, or prayers be added after the prayer "Deus, qui nobis" during the daily exposition of the Most Holy Sacrament? II. Can Masses for the dead be celebrated in the same chapel of the daily exposition of the Most Holy Eucharist, which has two altars, placed opposite each other with a passage in the middle, at the altar where the exposition is not present? And the Sacred Congregation of Rites

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responded on June 13, 1900: Negatively to both. From the Secretariat of the Sacred Congregation of Rites, on June 16, 1900. C. CARD. S. ALOISI-MASELLA, Pro-Datary. R. C. Pro-Prefect. L. * S. DIOMEDES PANICI, S. R. C. Secretary. OF SAINT SEVERINUS. A question regarding the first dignity of the Chapter, in the absence or impediment of the Bishop. The Most Reverend Lord Aloysius Valeri, Canon Theologian of the Cathedral Church of Saint Severinus, humbly presented the following to the Sacred Congregation of Rites: The first dignity of the Chapter of the aforementioned Cathedral Church, which is adorned with the title of Archdeacon, on more solemn days, in the absence of the Bishop.

[*Latin ed. p. 190*]

190 Whether the Sacred Congregation of Rites, being informed or not, performs the functions pertaining to it and chants the Conventual Masses, according to the norms of the *Caeremoniale Episcoporum*; nevertheless, it has thus far refused to do so on the feast day of March 19, the feast of Saint Joseph, the Spouse of the Virgin Mary, especially because the same Chapter obtained in the year 1874 the faculty to transfer itself from the church of Saint Augustine within the same city, under the same conditions and obligations as were observed in the original cathedral church. Therefore, the aforementioned Reverend Father, in the name of the other canons, with the consent of his Reverend Bishop, proposed the following question to be answered: "In this case, when the Bishop is absent or hindered, is the aforementioned dignity obligated to perform the aforementioned functions and Masses, even on the principal feast of Saint Joseph?" And the Sacred Congregation, after considering the report of the undersigned Secretary, the unanimous opinion of the Liturgical Commission, and all things considered, decided to respond affirmatively, and to observe the *Caeremoniale Episcoporum*, as well as Decrees No. 3595 of September 19, 1883, and No. 3865 of July 9, 1895. And thus it responded. July 17, 1900. C. CARD. S. ALOISI-MASELLA, Pro-Datary. R. C. Pro-Prefect. L. * S. DIOMEDES PANICI, S. R. C. Secretary. LAUDEN, or the Congregation of Regular Clerics of Saint Paul, the Barnabites. Various questions were humbly presented by Reverend Father Aloysius Maria Sacconaghi, of the Congregation of Regular Clerics of Saint Paul, the Barnabites, with the consent of his Reverend General Procurator, to the Sacred Congregation of Rites for a suitable declaration, namely: "In places where, on the feast of the Holy Apostles Peter and Paul, a commemoration of all the Apostles is made, especially in the First and Second Vespers and in the Mass, according to the Apostolic Indult, should such a commemoration be made in the aforementioned Second Vespers, when the feast of the Commemoration of Saint Paul the Apostle is celebrated the following day, as in the church

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itself, under the double rite of the first class?"

[*Latin ed. p. 191*]

FROM THE SACRED CONGREGATION OF RITUAL, 191. I. Is it permissible, during the continuous exposition of the Most Holy Sacrament on the main altar, to expose the relics of the Saints in other altars, and especially the relics of that Saint whose feast day occurs? II. Is it necessary in the prayer of the Divine Office to mention the name of St. Anthony of Zaccaria, Founder of the Congregation, and in the church of the Barnabites, to mention either St. Francis of Assisi, the patron of the church itself, or the other St. Francis, alternately? III. When, in some church, it is a day not proper nor assigned to a particular saint, and, due to a special privilege obtained from the Holy See, the Mass is celebrated and the Office is read as if it were a feast day, should the commemoration of the Office of the day be omitted? And the Sacred Congregation, after considering the matter with the undersigned Secretary, the opinion of the Liturgical Commission, and all things carefully, decided to respond as follows: To I: No. To II: Yes, but without the blessing and kissing of the relics, as long as the Most Holy Sacrament remains exposed. To III: No, to the first part; Yes, to the second. To IV: The Decree of Castri Maris, No. 3833, dated July 20, 1894, should be observed, namely, that the commemoration of the Office of the day should be omitted in the solemn Mass, and performed in the readings. And thus it responded. July 17, 1900. C. CARD. S. ALOISI-MASELLA, B. C. Pro-Datary. Pro-Prefect. L. j& S. DIOMEDE PANICI, S. R. C. Secretary. FANEN. Doubts regarding the exposition of the Most Holy Sacrament, regarding the celebration of Mass before the procession of the Most Holy Body of Christ, and regarding the throne to be erected by the Abbot of the Regular Canons. R. D. Guilelmus Betti, Parish Priest of St. Thomas the Apostle, and Master of Ceremonies of the Cathedral of Fano. The Reverend also, in the name and with the vote of his own Bishop of Fano, humbly presented the following to the Sacred Congregation of Rites, for a suitable declaration.

[*Latin ed. p. 192*]

From the Sacred Congregation of Rites, Instruction I:

I. Is it permissible to publicly expose the Most Holy Sacrament of the Eucharist, when there is no custom, in the form of Forty Hours, for only one day, in suffrage for a deceased person, in place of the Offices for the Dead?

II. On the feast of the Body of Christ, does the Bishop celebrate a Missa cantata before the solemn procession? If the Bishop is hindered, can the senior Canon celebrate a Missa cantata, or is he obligated to chant?

III. Can a family of Regular Canons, which is governed by the authority of the Abbot of the Congregation, erect and maintain a throne with a baldachin continuously in its own church?

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And the Sacred Congregation, after considering the aforementioned request from the secretary, the meticulous vote of the Liturgical Commission, and after careful deliberation, responded as follows:

To I: Since there is no custom, negative.

To II: Negative to the first part, affirmative to the second.

To III: Negative, and the decrees must be observed.

And thus it responded.

July 17, 1900.

C. CARD. S. ALOISI - MASELLA, Pro-Datary.

B. C., Pro-Prefect.

L. S. DIOMEDE PANICI, S. B. C., Secretary.

[*Latin ed. p. 193*]

193 Letters from the Most Holy Father Leo XIII to the Bishop of Assisi, on the occasion of the fiftieth anniversary of the discovery of the body of St. Clare. The Venerable Brother receives greetings and the Apostolic Benediction. The preeminence of the city of Assisi, which was obtained through the blessed Francis, is such that the name and virtues of Clare, who was the first of that saint's disciples, a cultivator and staunch defender of virginal sanctity, are also highly esteemed. And now, the pious devotion of the citizens, with you leading the way, grows ever stronger, so that fitting honors may be given to this great Virgin, as the tenth anniversary of the blessed discovery of her sacred body approaches. With this opportunity presented to us, our mind gladly turns to the beloved Umbria; especially because that very event not only remains deeply imprinted in our memory, but also seems to be present before our eyes. For, among the bishops whom the Assisiant Shepherd, in order to increase the faith and the celebration of this event, humanely invited from neighboring cities, We also, by God's grace, were present. With a solemn ceremony, accompanied by a select company of priests and citizens, We came to the temple of Clare: We descended into the crypt beneath the main altar, which was deeply dug; We stood reverently before the designated place. There, before our very eyes, the long-awaited relics were revealed, lying peacefully as if asleep, arranged in the form of a laurel wreath. Then it happened to Us, a laborious but most pleasing thing, to gather those precious pearls with Our own hands and to place them in a more worthy chest, to be kept there. After the prescribed rites had been properly completed, the very treasure was brought forth, placed upon the most beautiful altar; all eyes eagerly turned towards it, and prayers were offered: and finally, it was carried through the city, a harbinger of blessings, surrounded by the most splendid procession; how much joy it brought to Us and to the vast multitude of clergy and people, it is difficult to express. — In all of this, it was certainly fitting to admire the wonderful plan of God, both that the glory of the most humble and

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faithful Virgin might increase in the opinion and hope of men, and that from her bones, as if blossoming from their place, the sweet fragrance of Christ might spread widely, an incentive to generous virtue. Similar fruits are to be hoped for and expected from the renewal of the memory of this recent event. May Clare obtain grace from God for all who piously invoke her, especially for the citizens. (Acta, Vol. XXXIII, p. CCCLXXXVIII, 13)

[*Latin ed. p. 194*]

194 Let those who receive these letters feel them deeply; and may his example profitably warn, especially in this soft age, how blessed it is to rise above worldly things, to follow Christ humbly, and to embrace His cross courageously. — Therefore, Venerable Brother, we sincerely commend your diligence and the efforts of your group, who are working with you to prepare for these sacred celebrations, and we honor you with well-deserved praise: may your common endeavors be completed with good results. — We, who, out of ancient benevolence, have long desired to protect this Clarissan monastery, and have already made its guardianship our own, now reaffirm this special concern on this very important occasion; at the same time, we encourage them to persevere with greater zeal each day in the footsteps of the Holy Mother, according to her established rule, and to never cease praying for the mercy of the Heavenly Father for those who are wandering and erring. Furthermore, we wish to add a gift, a testament to our devotion to the Poor Clares; may they receive it graciously, and may our offering help them in the present circumstances. May the abundance of divine graces be bestowed through the Apostolic blessing, which we impart with the greatest affection to you, Venerable Brother, to the clergy, to the devoted virgins, and to all your people. Given in Rome, at St. Peter's, on the eleventh day of August, in the year 1900, in the twenty-third year of Our Pontificate.

L E O XIII.

LETTERS from His Holiness Pope Leo XIII to His Eminence Cardinal Vicar P. Respighi, concerning efforts for the protection of the Faith.

Signor Cardinal, From the very beginning of Our Pontificate, We have observed that one of the most deplorable consequences of the changed circumstances was the active proselytism of heresy in this, the capital of the Catholic world, and the resulting danger to which the faith of Our people was exposed. And on this matter, addressing Our Cardinal Vicar, We repeatedly gave exhortations, advice, and warnings to the faithful, urging them to be on guard against the many attempts that various sects, coming

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from foreign lands, were making here.

[*Latin ed. p. 195*]

LETTERS 195, under the protection of public laws, to spread the poison of denial and error among believing souls. But while we are pleased to acknowledge that Our words, strengthened by unremitting efforts, have not been without good results; on the other hand, we are compelled to confess that, doubled by the powerful aid they receive from without, the obstinacy of the enemies of the Catholic religion, far from diminishing, has increased, especially in these latter times. Therefore, Your Eminence, it is necessary for us to return to this painful and important subject, which is so intimately connected with the rights and duties of Our Apostolic Ministry and with the tender and paternal love we bear for our people in Rome. It is now known to everyone by the evidence of facts that the design conceived by heretical sects, a manifold emanation of Protestantism, is to plant the banner of discord and religious rebellion in the Peninsula, but especially in this beloved City, in which God Himself, with admirable arrangement of events, founded the center of that fruitful and sublime unity, which was the object of the prayer offered by Our Divine Savior to His Heavenly Father (John XVII.11.21) and which the Popes jealously preserved, even at the cost of their lives, and despite the opposition of men and the vicissitudes of time. After having destroyed, in their respective homelands, with diverse and opposing systems, ancient and venerable beliefs that formed part of the sacred deposit of revelation; after having infused into the souls of their followers the icy breath of doubt, division, and incredulity; a vast ruin, which we deplore and pity from the depths of our hearts, recognizing in all those creatures the children of the same Father and redeemed by the same blood: the aforementioned sects have entered this chosen vineyard of the Lord in order to continue their destructive and pernicious work therein. And, unable to rely on the strength of truth, they profit from the defenseless tenderness of youth, from the inadequacy of education, from the hardships of poverty, from the simplicity of many, accessible to flattery, enticements, and seductions, in order to extinguish, or at least to suppress, the Catholic faith in souls. Faced with this fact, We feel, above all, the bi-

[*Latin ed. p. 196*]

198 Letters: I desire to declare publicly, as We have already done on other occasions, how grievous is the condition in which the Head of the Catholic Church finds himself, compelled to witness the free and progressive spread of heresy in this holy City, from which the light of truth and example ought to spread throughout the world, and which ought to be the respected seat of the Vicar of Jesus Christ. As if it were not enough to corrupt the minds and hearts of the people, the torrent of unhealthy doctrines and depravity, which pours forth daily and impunemente from books, from lecture halls,

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from theaters, from newspapers, it was necessary that to all these causes of perversion should be added the insidious work of heretical men, who, in their strife with one another, are united only in their contempt for the supreme pontifical Magisterium, the Catholic clergy, and the doctrines of our holy religion, the meaning of which they do not understand, let alone its august beauty. Therefore, those faithful who, from all regions, even the most remote, flock to Rome in order to find comfort for their piety and their faith, must be deeply saddened to see this soil, soaked with the blood of martyrs, invaded by sects of every kind, intent solely on tearing from the hearts of the people that religion which has been declared the religion of the state, and which forms the object of their chief love and worship. She will easily understand, Most Eminent Cardinal, how painful this state of affairs is to Our heart, and how fervent is Our desire to see adopted suitable remedies, which, if they cannot entirely remove the evil, at least may mitigate its severity and harshness. And for this reason, We were greatly comforted by the foundation of an excellent work, to which We Ourselves gave inspiration and impetus, which is called the Preservation of the Faith, and even more so by the gratifying results which it has begun to achieve through the tireless zeal of those who direct it and who are part of it. We desire, Most Eminent Cardinal, relying on Your well-known and diligent activity, that this salutary work, so suited to the present need, be sustained, strengthened, and propagated until it constitutes an effective and formidable defense against the aforementioned danger. It must receive a valid and constant support, first and foremost from the parish clergy of Rome, that industrious, zealous, and humble clergy, to whom the principal care is entrusted.

[*Latin ed. p. 197*]

LETTERS 197, and the responsibility for the health of souls; to this must also be added vitality, strength, and extension by the Catholic laity of this city, which is always ready to offer its intelligent and charitable assistance wherever the interests of religion and the moral and material well-being of others require it. Furthermore, let all be concerned to strengthen the character of the Catholic people, inspiring them with noble and holy purposes, and at the same time preventing those who, under the innocent appearances of boarding schools for young men, of educational institutions for girls, of schools of foreign languages, of cultural enrichment, of assistance to needy families, conceal the wicked design of instilling into minds and hearts the reprehensible tenets of heresy. May all the faithful be imbued with this truth, that there can be nothing greater or more precious than the treasure of that faith, for which their fathers faced fearlessly, not only deprivations and miseries, but often violent persecutions and even death. And such a feeling of fortitude can only be natural and profound in the hearts of this our population, which well knows that the Catholic

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Church not only possesses divine attributes that distinguish it as the only true Church, the only one that has received the promises of eternal life; but has also, in every age, bestowed incomparable benefits upon Rome, upon Italy, and upon the world, subduing barbarity with the justice of laws and the mildness of customs, extending, as Saint Leo the Great rightly says (Sermon I. in the Nativity of the Holy Apostles Peter and Paul), the dominion of Christian peace far beyond the borders explored by the Roman eagles, saving letters, libraries, culture, monuments; inspiring every order of sciences and arts; coming to the aid of the weak, the poor, the oppressed with the generosity of affections, and with the magnanimity of sacrifice and heroism. Therefore, we are confident that none of the Romans, who are the most privileged children of the Catholic Church, will ever, for any human interest, wish to separate themselves from this most tender mother, who, after having brought them forth into grace, has not ceased to surround them with her affectionate solicitude; just as we are also persuaded that those generous Catholics, who founded and promoted the aforementioned work of the Preservation of the Faith, will not give themselves either truce or rest until the eternal salvation of even a single soul is in danger, thus demonstrating by their actions that...

[*Latin ed. p. 198*]

198 LETTERS: Although the enemies of the religion are more powerful in terms of resources, they are overcome by the vastness of charity. While, meanwhile, we invoke the favor of the Divine, in order to properly conduct this most serious undertaking, we impart, from the depths of our heart, the Apostolic blessing to you, Most Reverend Cardinal, to the Promoters of this pious work, and to all who will support it. From the Vatican, August 19, 1900. LEO PP. XI. LETTERS in the form of a Brief from the Most Holy Father Leo XIII; whose object is the translation of the body of Saint Augustine to the Basilica of Saint Peter in the golden heaven of the city of Pavia. LEO, POPE XIII. FOR FUTURE REMEMBRANCE. The Venerable Brother Augustine, Bishop of Pavia, together with his beloved sons, the Eremites of the Order of Saint Augustine in Pavia, recently made humble supplications to Us, so that the mortal remains of Saint Augustine might be transferred, with Our permission, to the restored and embellished Basilica of Saint Peter in the golden heaven, to its original resting place. And so that they might not appear to be acting rashly, they recount the entire history of the sacred relics, which it pleases Us to briefly touch upon. When the Blessed Augustine, Doctor of the Church, having freed himself from the bonds of the body, as from a prison, and having attained heaven, his body was reverently laid to rest by his disciples in the Cathedral Church at Hippo, in honor of Saint Stephen, the first martyr, where he found lasting peace. But when Trasamundus, the Arian King of the Vandals, having stirred up a cruel persecution against the Catholic people, ordered Bishop Fulgentius

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of Ruspae, and with him many other Bishops, priests, clerics, monks, and other Christians, to migrate and be exiled from Africa to the neighboring island of Sardinia; so that this great treasure would not fall into the hands of the rapacious enemies, they took the body of Augustine and the relics of other saints with them to Sardinia. In that place, for approximately two hundred and twenty years, those blessed relics shone with miracles, by which the sanctity of the excellent prelate was proven and confirmed, as was the truth of the relics themselves. But not long after, a great and...

[*Latin ed. p. 199*]

Litterae 199 report that a savage horde of Saracens invaded Sardinia, and, as was their custom, they devastated everything, even violating the tomb of St. Augustine. Luitprand, the most pious King of the Lombards, because of the singular affection he held for Augustine, quickly dispatched a large sum of gold and silver to the island, with brave men of his nation, to redeem the body of the Saint. The Lombard envoys, having accomplished the task that the King desired, placed the sacred relics on a ship and, after a voyage of one day and night, arrived at Janua. Upon hearing this news, the King himself, accompanied by his nobles and leading men, along with all the bishops of the kingdom and the entire clergy, as far as the borders of the region of Derthonensis, proceeded to the city, and, having displayed the insignia of royal dignity, with great humility and reverence, he venerated the sacred relics, as if they were a gift given to him by God. It was truly said of the body of Augustine, "And his bones were visited, and after death they prophesied," for many were the wonders and miracles by which God wished to illuminate the mortal remains of his servant. As soon as the King's arrival with the sacred relics was announced in the city of Pavia, the entire city, abandoning its homes, rushed out to receive and embrace the relics of Augustine, singing hymns and chants, rejoicing as if the King were celebrating a triumph over formidable enemies after a victorious war. In Pavia, in the temple of St. Peter, in the golden heaven, Luitprand placed the relics of Augustine, in that very temple which, having been founded and endowed by his ancestors, he himself had generously restored, embellished, and supported with liberal endowments for the adjoining monastery. There, until the year 1695, the most blessed body, though hidden from the eyes of Christians, was illuminated by the fame of miracles, and was celebrated with the veneration of citizens, both native and foreign. But in that very year, it was happily discovered, and after a long investigation and lengthy inquiries, it was recognized by Francis, the Bishop of Pavia, and by our predecessor, Benedict XIII, in the year 1728, and, being raised to the dignity of a Minor Basilica, it rested in a distinguished monument, beneath the main altar of the same temple. Later, as the basilica was decaying and about to collapse, it was first transferred to a temple dedicated to the name of Jesus, and then to the Cathedral Basilica

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of Pavia in the year 1791. There, in the year 1832, a shrine was built by Bishop Aloysius Tosi, and within it, a marble

[*Latin ed. p. 200*]

200 The letters recount how the monument, which the Order of Eremites of Saint Augustine had endeavored to complete in honor of their Founder, and which had been damaged by human malice, the injuries of time, and the vicissitudes of events, was restored. Consequently, in the following year, by the authority and command of the Most Holy Pope Gregory XVI, Our Predecessor, the relics of Saint Augustine were again discovered and confirmed, and, from the old cypress chest, they were transferred to a new urn made of gilded bronze and placed beneath the restored monument. In the year 1984, the present Archbishop of Pavia, having found an opportunity for the restoration of the Basilica of Saint Ambrose, for which reason the remains and bones of the Saint had to be removed from their place, obtained Our permission, and then, after a thorough inspection and examination, he decorated the urn with silver ornaments, with the expenses being borne in part by the Chapter of the Cathedral. Now, since the very ancient Basilica of Saint Peter in Chains, once weakened and almost overthrown, has been restored to its former appearance of solidity, and has been returned to Catholic worship, and since the Eremites of the Order of Saint Augustine, within their monastery, rightfully keep the relics of their Founder, and the Venerable Bishop of Pavia, with his counsel and prudence, has taken care of all things and provided for all things, so that the remains of the Saint may be suitably restored to their original burial place, We gladly permit that the treasure of these sacred relics be transferred to the Basilica of Saint Peter in Chains; therefore, by Our Apostolic authority, through these present letters, preserving always with Us and with this Apostolic See the authority over these same relics, so that no one may have the right to seize and possess them, We grant the faculty to transfer the sacred relics of the Blessed Augustine, Pope and Doctor, from the Cathedral Basilica to the restored Basilica of Saint Peter in Chains. We also decree, by Our Apostolic authority, that the Basilica of Saint Peter, which will be entrusted to the Order of Eremites of Saint Augustine with the exemption granted to this Order, shall have the obligation that it be permissible for the urban church of Saint Mary of Mount Carmel (Haifa) to enter it, so that it may receive the Blessed Sacrament to take to the nearby sick parishioners; so that the transfer of these sacred relics is declared granted on the condition that, if, perchance, the Basilica of Saint Peter in Chains should be withdrawn from worship, or if the Eremites of the Order of Saint Augustine should depart from it for any serious reason, then those relics shall be returned to the Cathedral Basilica; so that the keys of this same treasure, which are usually kept with three keys, shall have one key held by the Religious Eremite;

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another

[*Latin ed. p. 201*]

LETTERS 201. To the Bishop and the Chapter of the Cathedral; to the third order, or the superiors of the municipality of Pavia, which Most Holy Pope Benedict XIII granted: that to the Bishop and the Chapter of the Cathedral, the right be assured of entering collegially each year to the Basilica of Saint Peter, so that there a solemn Mass may be celebrated in honor of Saint Augustine; and that the Bishop, for the time being, whenever any public cause or occasion presents itself, may determine to visit the same Basilica, or may himself attend for some solemn function, or for diocesan pilgrimages. We decree that these Our letters shall be firm, valid, and efficacious, and shall have their full and complete effect, and that they shall fully suffice for those to whom they pertain, and may pertain, in all things; and that, accordingly, in matters concerning these things, they ought to be judged and decided by any ordinary or delegated judges; and that they shall be void and null, if anyone, knowingly or unknowingly, should attempt to alter them in any way. Notwithstanding any Apostolic Constitutions and Ordinances, and any other special licenses, or individual mentions and derogations, whatever they may be, to the contrary. Given at Rome, near Saint Peter, on the fourteenth day of September, in the year 1900, in the twenty-third year of Our Pontificate. By special mandate of the Most Holy Aloysius Cardinal Macchi. LETTERS of His Holiness Pope Leo XIII, to the Reverend Father Joseph Calasanctio, of the title of Saint Stephen and Saint Basil, Deacon, Cardinal Vives y Tato. To Our beloved son Hadrian, greetings and Apostolic blessing. — It has clearly been evident from the letter which We addressed jointly to the assembled members beforehand, with what mind and spirit We have followed the assembly which the Third Order of the Franciscans held in the City a few days ago. For this reason, since We have learned, through Your testimony, and through the writings of the other superiors, of the happy outcome of the assembly, We are very pleased, and We have taken great hope of the ever-increasing propagation of the Franciscan Third Order Institute.

[*Latin ed. p. 202*]

202 Our opinion is that those things which most contribute to the desired spread [of the Order] were indicated and impressed upon you in the aforementioned Letter. However, it is pleasing to commend again the harmony of minds and the diligent observance of the laws, in all places and at all times. One law makes one body; and when the law is observed, the strength of the body remains, and the effectiveness of action is maintained. We wished that your law should be such that, although the nature of various peoples and their diverse customs may differ, it may nonetheless be valid and effective everywhere. Because the institution of the Third Order,

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according to the counsel of the Seraphic Founder, aims above all to spread the love of God and of men in hearts, and to revive what is dead; let all members of the Third Order direct their efforts and their zeal towards this end, so that they may promote the first honor of God, and then, truly, help all the poor to attain eternal happiness, and, as far as possible, also the happiness of this life. The circumstances of the time in which Francis instituted his Order add to our reasons for this, for many reasons. Therefore, there is no doubt that, just as he obtained most excellent benefits from your Institute, the same benefits, with your cooperation, may be available to the Church and to the State. May God grant this, through the intercession of Francis. And in order that we may secure the support of divine benefits, we impart, with the greatest affection, the Apostolic Blessing to all the Franciscan Orders. Given at Rome, near St. Peter, on the 4th of October, 1900, in the twenty-third year of Our Pontificate. LEO XIII. FROM THE 8TH GENERAL CONGREGATION OF BISHOPS AND REGULAR CANONS OF ST. JAMES OF CHILE. The Legates of the Holy Father. On March 10, 1900. SUMMARY OF EVENTS. In the year 1905, a priest named Michael Tagle, together with four other priests, petitioned the Archbishop of St. James of Chile to found a Congregation of the Oratory, according to the example of St. Philip Neri, in this city.

[*Latin ed. p. 203*]

The Society of Saint James of Chile is governed by rules similar to those followed in Rome. To establish this foundation, the Most Reverend Lord Larrain Gandarillas, the titular Archbishop of Anazarbus, had already freely granted the use of a house located on Via Santa Rosa, number 32, in that city, to the promoters of the new institution. The Archbishop of Saint James of Chile readily approved the request, and the institution began to operate in that house, and also in another house commonly called "Convento," located on the same street, number 34, which was also donated by the generosity of the Archbishop of Anazarbus. At the end of the year 1896, after four other priests left the institution, only Father Tagle remained, but in the following year, he received four new members and two lay brothers, and, as he himself affirms, the house of the institution now contains the Superior, eight student novices, and three lay brothers. Meanwhile, in the year 1897, on September 26th, the late Archbishop Larrain witnessed the beginning of the foundation, which he had already arranged in his will of December 23, 1891, to benefit the aforementioned two houses for the diocesan seminary. However, after his death, another will was found, also made by Archbishop Larrain, but undated, unsigned, and without witnesses, in which he made different provisions than those stated in the first will. The summary of this second will is as follows: The usufruct of the two houses is assigned to the Congregation of the Oratory for thirty years, provided that, at the time of the testator's death, the

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institution is solidly established and canonically erected, and furthermore, that it regularly functions for three years without interruption, observing the rules of Saint Philip Neri; during that time, the property belongs to the Congregation of the Daughters of Saint Joseph as a trustee. The executor of the will is granted the power, if at the time of the testator's death the Congregation is not yet canonically erected, to extend the period of the trial by two years; but then, the three years will run from the date of the decree of the canonical erection of the institution. The institution must have at least three priests and three lay brothers. If these conditions are met, and

[*Latin ed. p. 204*]

204 EX S. C. EPISC. ET REGUL. Congregatio Oratorii, habens personalitatem iuridicam, adquirat proprietatem stabilium: alio modo, sive si durante tricennio, per tempus anni, conditiones positae deficiunt, sive etiam si posteaquam Institutum proprietatem stabilium acquisiverit, ipsum cessare contigerit, proprietates absolutas domorum evadent filiis S. Iosephi. Super valorem huius testamenti, quod sacerdos Tagle ex variis indiciis contendit factum fuisse ab Archiepiscopo Larrain paulo ante suum decessum, nempe anno 1897, orta est quaestio inter ipsum Tagle et Rerum Archiepiscopum S. Iacobi de Chile, qui sustinens valorem prioris testamenti et negans existentiam canonicam Congregationis Oratorii, decreto mensis Decembris 1897 iussit publicum eius Oratorium claudere. A iudicio Ordinarii appellavit ad S. Sedem sacerdos Tagle, qui interim coram civili tribunali vadatus huius sententia damnatus fuit ad restituenda seu tradenda seminario infra bimestre enunciata bona stabilia seu duas domos. Disceptatio Synoptica. FAVORE SEMINARII TESTAMENTUM AN. 1891 SEU PRIUS Archiepiscopus Sancti Iacobi de Chile, allegationibus Executoris testamentarii Campino et Rectoris Seminarii infra referendis, haec addit: reapse sacerdos Tagle cum aliis quatuor sacerdotibus licentiam imploravit fundandi Congregationem Oratorii, quam Archiepiscopus libenter concessit. Sed fundatio non egressa est propositi limites. Inter sacerdotem Tagle et presbyteros consocios discordiae exortae sunt ob plures causas, quae in appositis declarationibus referuntur; eosque impulerunt ad illico Institutum relinquendum. Insuper sacerdos Tagle, praeter falsam doctrinam ab eo propugnatam circa diabolicum interventum, iam a S. Officio damnatam, mala affectus valetudine et caecitate laborans impar erat ad munus Praepositi gerendum in Congregatione Oratorii, quae sive ex morte Archiepiscopi Larrain, TESTAMENTUM VIDETURE SUSTINENDUM.

[*Latin ed. p. 205*]

Saint James of Chile 205, being the principal Protector, or because it contained only a few boys, was destined to decline from its very beginning.

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Regarding the later will of Rmi Larrain, the Archbishop observes, that it cannot claim any validity or value, both because it is rather a draft of a will, not secured with any signature, and with various alterations made in the text, and because, concerning this draft, Archbishop Larrain did not utter a single word during his final illness to those present, including the testamentary executor Campino; therefore, it can be legally presumed that Lord Larrain persevered in his prior will. The testamentary executor Campino thus rejects the claims of the priest Tagle. 1. The will of November 23, 1891, is valid before civil law, since it was drawn up with all the formalities of the law; on the other hand, the later will of 1897 is informal, without a date, witness, or the testator's signature, and has not yet been brought to completion; therefore, it cannot have any validity before civil law. 2. If this second will were recognized by the testamentary executor, the legatees and heirs of the former will would denounce it before the tribunal to answer for the provisions contained in the first will, to their advantage. 3. Not only the Reverend Ordinary of Saint James of Chile, but also the priest Tagle himself, on two occasions before the ecclesiastical Provisor, affirmed that the second will of Rmi Larrain was merely a draft of a will, which has no value whatsoever. The Rector of the Seminary, in favor of the Institute, draws the following conclusion. He states that, outside the Pontifical jurisdiction, whether testaments for pious causes, made without legal solemnity, are valid, is a question, as Collet, Carrière, and most recently the distinguished canonist D'Annibale, *summula theol. moral, par. 2, n. 352*, hold. But, even with the greatest privileges granted for pious causes, it is certain and accepted among all theologians and canonists, that in such dispositions, there must be certain proof of the deceased's positive will, either through a handwritten will, signed and sealed, or through the testimony of two or more witnesses, with their declarations, or

[*Latin ed. p. 206*]

206. From the Most Reverend Bishop and concerning desires to have [wills] tested, even if matters committed to writing, such as drafts and outlines of wills, cannot be considered as a solemn declaration of what one wishes to be done after his death. This doctrine is supported by the authority of many doctors, and especially the renowned moralist De Lugo, who in the title on Justice and Law, Disputation XXII, section 9, writes as follows: "When a testator has the intention of making a disposition and, for this purpose, perhaps wrote instructions with his own hand, and then called a notary to legally dispose of [his affairs], and he dies in the meantime... In this case, the intention alone to dispose of [property] is not sufficient for pious causes, because that disposition is not made, but the intention to dispose of [property] is not reduced to execution." Furthermore, the Rector continues, "in order for a testamentary disposition to be valid, it must be declared and notified to others for its execution, just as a law does not have

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its force, even if signed by the legislator himself, unless it is made known to the community." The Chilean Civil Code, listing various types of wills in articles 1015, 1023, and 1032, in all of these, considers and requires, as a substantial element of a will, the act of the testator declaring his will. The Rector adds that, if the alleged will of 1897 is examined, it is easily found to lack this constitutive element, since it contains several corrections and unfinished sentences; it lacks the date of the day and year in which it was completed; the testator's signature is missing; therefore, it cannot in any way be considered as the absolute and declared will of the Most Reverend Larrain, which revoked the previous solemn will of 1891. And this is all the more to be held, because the Most Reverend Larrain, being an expert in both laws, knew perfectly well that this will, solemnly requested by him, could not lose its force except by his revocation, or by a contrary solemn disposition; indeed, he had the time and opportunity to do so, having had the testamentary executor Campino with him on several occasions during his illness. Therefore, in January of 1897, when, according to Tagle, the minutes of the will were drawn up, and these were presented until October of the same year, in which the Most Reverend Larrain died, it was never...

[*Latin ed. p. 207*]

Saint James of Chile 207 declared his new will, and it must certainly be held that he intended to maintain the validity of the previous testament. Furthermore, what does the priest Tagle object to, namely, that when two testaments exist, one completed with civil formalities and the other without legal form, but for pious causes, the latter ought to be considered valid or should take precedence due to the privilege of pious causes? The Rector responds that this principle cannot be invoked in this matter, since there is only one testament, and the alleged new disposition does not exceed the limits of a simple new will. He further cites the decision of the Holy Congregation of Councils in the matter of a certain testament, dated April 27, 1895. In that case, the matter concerned the will of a testator who expressed in his testament the desire to add a certain house for the residence of a vice-parish priest, for the benefit of the parish, and the parish's building fund claimed that the testator had left the aforementioned house to the building fund, because the testamentary witnesses testified that the testator had intended to bequeath it to the parish building fund. However, the question was decided in favor of the parish building fund. Finally, the Rector of the Seminary observes that the priest Tagle inappropriately invokes the principle "In dubio melior est conditio possidenti" [In case of doubt, the condition of the possessor is better]. The right of the Seminary is certain, and even if it were doubtful, the possession belongs not to the Congregation of the Oratory, but to the Seminary. Indeed, as Canon Law I. 2, title 12 defines, possession is the detention of a corporeal thing, with the concurrence of body and mind, and with the support of law; and, according to the Chilean

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Civil Code, article 700, possession is the detention of a specific thing with the intention of ownership. Now, the Rector of the Seminary continues, this possession, relating to the real estate or houses bequeathed in the alleged will of 1897, was never obtained by the priest Tagle or the Congregation of the Oratory, neither before nor after the death of the Most Reverend Archbishop Larrain. Not before the death, because the true possessor of the houses was the Most Reverend Larrain himself, as their owner, and the priest Tagle was merely a usufructuary, since no title of ownership was transferred. Not after the death, because...

[*Latin ed. p. 208*]

208 FROM THE DECREES OF BISHOPS AND CANONS. concerning death, because, according to Article 722 and 956 of the Chilean Code, the possession of the inheritance passes immediately to the designated heir after the testator's death: and in this matter, the Seminary was the legitimate heir; and because, according to the aforementioned Code, Article 717, a successor can unite his possession with that of his predecessor, therefore, for many years, the Seminary can be considered the possessor of the goods of the late Mr. Larrain. Considering these and other points of lesser importance, which are omitted here for the sake of brevity, the Rector of the Seminary concludes that the petition of the Priest Tagle must be entirely rejected. IN FAVOR OF THE CONGREGATION OF ORATORIANS OF THE PHILIPPINES: OR, ACCORDING TO THE TESTAMENT OF THE YEAR 1897, IT APPEARS TO BE THE CASE. On the other hand, the Priest Tagle presents the following arguments to prove his intention. Having stated that a bequest in favor of his Congregation is a bequest for a pious cause, he concedes that if the testament of the late Mr. Larrain of the year 1897 is judged to be valid in the eyes of civil law, it may not be valid for civil effects; but he believes that it must be judged differently with regard to the obligation in the forum of conscience. Indeed, it is well known that dispositions made for pious causes must be regulated not according to the laws of the world, but according to the laws of the Church, to which they are subject. It is certainly not unknown, even to those who have tasted the law of the Church with their own lips, that bequests for pious causes are privileged, and that in these, it is sufficient to prove the pious intention of the deceased to create an obligation on the heir. He cites De Angelis, *Praelectiones Iure Canonico*, Book 3, Title 26, Article 3, and Reinffestuel, who, in his treatise, develops the matter in number 167, and raises a question that properly applies to the present case, namely, what should be considered when someone, wishing to testify without witnesses, begins to write down his last will with his own hand, but dies before the will is completely executed. To this question, in number 171, he answers unequivocally: the disposition is valid, at least as far as a pious cause is concerned, even if it is not valid for a secular cause in the external forum. And does it matter that, in this case, the bequest for

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pious causes was a solemn one?

[*Latin ed. p. 209*]

Saint James of Chile, 209, and what follows, is not a solemn, or legally formal, act: for Father Tagle, in *S. Higovio*, Book III, treatise F, paragraph 922, states that the latter is to be preferred, since it only expresses the last will of the deceased. However, no one will deny that the will of 1897 should be considered a disposition for pious causes. In it, the testator bequeathed his goods partly to the Seminary and the Cattolica University, and partly to the Congregation of the Daughters of Saint Joseph and the Congregation of the Oratory. Indeed, from several trustworthy witnesses, it is known that the Most Reverend Larrain had the intention of revising his will according to the prescriptions of civil law, had he not been prevented by a sudden death. He himself had brought his will with him to the city of Saint Bernard, where he had gone to seek the recovery of his health, and he had shown his will, dated 1891, as it was written in 1897, to three physicians and to those attending him in his illness; but he was unable to complete this, due to his unexpected death. From these circumstances, Father Tagle concludes that the last will of the Most Reverend Larrain is sufficiently and abundantly clear; and that, if he could not comply with the civil laws regarding wills, this is irrelevant in this case, since, before the Church, such wills are valid even without civil form.

Thus far, what has been explained seems to gain greater strength, according to Father Tagle, if we consider the reasons that compelled the Most Reverend Larrain to revise his will of 1891. On the one hand, he had acquired several properties, about which he had not been able to dispose in the aforementioned will, such as two houses on Alameda de las Delicias in 1892 and 1896, which he subsequently left in the will of 1897 to the Cattolica University which he had founded; also, another house purchased in 1895, of which he bequeathed the usufruct to his brother Ladislaus and the ownership to the Congregation of the Daughters of Saint Joseph. On the other hand, after 1898, two new pious institutions arose through the efforts and care of the Most Reverend Larrain, namely the Congregation of the Oratory founded by Saint Philip Neri, and the Congregation of the Daughters of Saint Joseph. Elsewhere, the end of the bequest of the two houses is mentioned, *Acta*, Volume XXXIII, page CCCLXXXVIII, 14.

[*Latin ed. p. 210*]

210. With the favor of the Most Reverend Bishop and the regulations of the Seminary, as evidenced by the will of 1891, namely, to support a small Catholic Mercantile College from its revenues, which later had to be closed due to a lack of students: the usufruct and use of these houses, even during the lifetime of the Most Reverend Larrain, were already dedicated to the Congregation of the Oratory. Therefore, it was highly fitting to the

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piety and charity of the Founder of the new institutions that, after his death, he should consider their preservation, as he indeed provided through testamentary dispositions in 1897. And the priest Tagle believes this should be maintained all the more, because the pious benefactor, having ceded the use of the two houses to the Congregation of the Oratory, wished that, after his death, it should be extended either for two years or for three years, depending on whether the institution was flourishing or struggling at the time of his death, in order to see whether, over time, this Congregation would prove viable; and if not, he wished that the property and use should be united in the Congregation of the Daughters of St. Joseph. Finally, the priest Tagle argues that two cases must be clearly distinguished according to the final disposition of the will of 1897 by the Most Reverend Larrain. The first case is that established by the testator, when, at the time of his death, the priest Tagle would not be exercising the office of Prefect in the Congregation: in this case, the judgment regarding the observance of the Constitutions in the Congregation, his hope for its future consolidation, and its canonical erection, are referred to the Archbishop of St. James of Chile and the testamentary executor Campino, besides which, in order to obtain the legacy, it is required that the Congregation consist of six individuals, of whom three must be priests. The second case is when, at the time of the testator's death, the priest Tagle is still the Prefect of the Congregation; in this case, the testator only requires the observance of the Constitutions by no one, and that the community consist of at least five individuals, including the Prefect himself. I yield to the words of the testator. "Therefore, if, at the time of my death, the priest Tagle, the founder of this work (the Congregation of the Oratory), is occupying house number 32 with a community of at least 5 people, including the Prefect..."

[*Latin ed. p. 211*]

Saint James of Chile 211, including those who observe the Constitutions of the Oratory, shall continue to enjoy the house and its benefits, "Conventillo." With these matters stated, the priest Tagle emphasizes that, at the time of the death of the Most Reverend Larrain, he himself was residing in the aforementioned house with the Congregation or Community of the Oratory, consisting of six individuals, of whom three were novices and two were laymen, and he himself held the office of Prefect; furthermore, he insists that the Constitutions of the Oratory were observed in his Community, and on this matter, he requests that trustworthy individuals be questioned, whom he certainly believes to be so, and he reported that the Ordinary was informed of this in his letters to the Sacred Congregation of Bishops and Regulars. He insists on this point, stating that he wishes to be restored with his Community to possession of the two houses, from which he was unjustly removed by a sentence of the civil court issued at the request of the Ordinary himself, and this in order to ascertain, through the proceedings

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of the will of the year 1897 of the Most Reverend Larrain, whether the Congregation of the Oratory was canonically established and valid within the period of 30 years. With these rights presented for both parties, in the shortest possible manner, the purpose was to resolve the following doubt: Whether, notwithstanding the written statement left by the Most Reverend Archbishop Larrain, the will of December 23, 1891, should be considered valid in this case.

RESOLUTION. The Sacred Congregation of Bishops and Regulars, in a general meeting on March 16, 1900, after carefully considering various arguments and after revising the doubt as follows: Whether the will of the Most Reverend Archbishop Larrain, dated December 23, 1891, should be considered valid, notwithstanding other writings and arguments presented by the priest Michael Tagle in this case: responded Affirmative.

[*Latin ed. p. 212*]

212 FROM THE SECRETARY OF INDULGENCES. The Brotherhood of daily and universal adoration, duly established in Turin, is enriched with indulgences. POPE LEO XIII. FOR THE FUTURE REMEMBRANCE. Since, as We have learned, a pious Brotherhood under the title "Of the Daily Universal Adoration of the Most Holy Sacrament" has been canonically established in the city of Turin, whose members, either by publicly adoring the Most Holy Eucharist daily in churches, or by accompanying those who are dying and receiving Viaticum, strive above all to atone for the injuries done to Him, We, confident in the mercy of Almighty God and in the authority of the blessed Apostles Peter and Paul, grant to all and each of its members who, truly contrite and having confessed, and having received Holy Communion, shall devoutly visit, on any day of the year, for four years, the church where this pious work has been instituted, for a period of time from the first vespers until sunset on those days, and there offer devout prayers for the concord of Christian princes, the extirpation of heresies, the conversion of sinners, and the exaltation of the Holy Mother Church, We grant, on the day that they perform these actions, a plenary indulgence and remission of all their sins, mercifully in the Lord. Furthermore, to those same members who, with a contrite heart, shall devoutly visit the Sacrament in any church, and there, as aforesaid, pray, We grant three hundred days of indulgence, to be applied to the penances prescribed to them or in any other manner, according to the custom of the Church. We also grant, by Our Apostolic authority, that all these indulgences, remissions of sins, and relaxations of penances may also be applied for the benefit of the souls of Christian faithful who, united with God in charity, have departed from this life, as a form of suffrage. These present indulgences are valid for seven years only. Given at Rome, near Saint Peter, under the Fisherman's Ring, on the first day of May, in the year 1893, in the sixteenth year of Our pontificate.

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S. CARD. VANNUTELLI, Prefect.

[*Latin ed. p. 213*]

FROM THE SECRETARY'S BRIEF 215, THE BROTHERHOOD is established as a primary [institution], and is endowed with indulgences by LEO PP. XIII, FOR PERPETUAL REMEMBRANCE. Following in the footsteps of Our predecessors, the Roman Pontiffs, We are accustomed to adorn and enrich pious associations of the faithful, instituted for the exercise of works of piety and charity, with special privileges and honors. Indeed, when Our beloved sons, the Curators and members of the Universal Pious Union of Perpetual Daily Adoration of the Most Holy Sacrament, canonically established in Augsburg and Turin, presented petitions to Us, requesting that We, out of Apostolic benevolence, increase the same [institution] with the title and privileges of a primary [institution], We, considering that this would contribute to the growth and good of that fruitful Union, deemed it fitting to grant their wishes with a willing heart. Wherefore, embracing all and each of those to whom these Our Letters are addressed with particular benevolence, and absolving and considering absolved from any excommunication, interdict, and other ecclesiastical sentences, censures, and penalties, if any such they may have incurred, for this very reason, by Our Apostolic Authority, by the force of the present, We establish and institute the aforementioned pious Union as a primary [institution] with the customary privileges and honors, perpetually. Furthermore, We grant and concede, also perpetually, by the same Our Authority, by the force of these Letters, that the Officials and members, present and future, of the Arch-Sodalit y thus established, may lawfully communicate to any other Unions and Associations of the same name and purpose, existing only within the boundaries of Italy, while observing the form of the Constitution of Clement PP. VIII, Our predecessor, and other Apostolic Ordinances issued above, all and each of the indulgences, remissions of sins, and relaxations of penances granted by the Apostolic See to that pious Union, thus established as a primary [institution], and may communicate them to others. We declare these presents to be firm, valid, and efficacious, and to have and obtain their full and complete effect, and that they shall fully suffice and prevail for all those to whom they pertain, both now and in the future; and that, accordingly, in all matters, they ought to be judged and decided by any judges ordinary and delegated, and by others whatever their prominence and authority may be, and that they shall be declared void and null if otherwise.

[*Latin ed. p. 214*]

214 FROM THE SECRET BRIEF concerning those matters which, whether knowingly or unknowingly, have come to be attempted by anyone whatsoever. Notwithstanding the Apostolic Constitutions and Ordinances,

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and to the extent that it is necessary, the aforementioned pious Union, even if strengthened by oath, Apostolic confirmation, or any other means, shall have its statutes, customs, and all other contrary things annulled. Given in Rome, at St. Peter's, under the Fisherman's Ring, on the 21st day of August, 1894, in the seventeenth year of Our Pontificate. C. CARD. DE RUGGIERO FROM THE HOLY CONGREGATION FOR INDULGENCES. The Director of the Pious Association of the Universal Daily Adoration of the Blessed Sacrament, canonically established in Turin, prostrate before the Sacred Foot, with the aim of more effectively promoting the pious practice of daily visits to the Blessed Sacrament, humbly requests Your Eminence to deign to grant perpetually to the Pious Association the following indulgences, in addition to those already granted to it from its very beginning, namely:

I. The plenary indulgence:

1. On the day of enrollment in the Pious Sodality, provided that the faithful who enroll therein, truly repentant, confess, and receive Holy Communion, visit some church or public oratory and pray there for a certain time, according to the intentions of Your Eminence;

2. At the hour of death for those enrolled who, being thus disposed, or at least contrite, invoke with their heart, if they cannot with their mouth, the Most Holy Name of Jesus.

II. The partial indulgence of 7 years and as many quarantines for each visit that the members make to the Blessed Sacrament between noon and 4 p.m., during which hours the adorers are ordinarily scarce.

He further implores Your Eminence to deign to confirm perpetually the other indulgences, both plenary and partial, already granted to the Pious Association by Brief of May 1, 1893. May the grace...

[*Latin ed. p. 215*]

FROM THE SACRED CONGREGATION FOR INDULGENCES AND SACRED RELICS, 215, and the Congregation for Indulgences and Sacred Relics, exercising the faculties specially granted to it by the Most Holy Pope Leo XIII, has graciously approved the following, in all respects according to the petitions. This [decree] is valid forever, without any brief [papal bull] being required, notwithstanding any contrary provisions. Given in Rome, from the Secretariat of the aforementioned Sacred Congregation, on the 18th of August, 1896. A. CARD. STEINHUBER, Prefect. FROM THE VATICAN, CIRCULAR LETTERS from the Most Eminent Secretary to the Archbishops of Italy, concerning the spiritual needs of emigrants.

Most Reverend and Most Reverend Lord, It is well known that the temporary emigration of Italian workers throughout Europe, and especially in Switzerland, France, Austria, and Germany, has increased considerably in recent years. Unfortunately, it is also known that emigrants are exposed to all sorts of dangers, being far from their families and their native parishes;

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scattered in a foreign land; mingled with other workers who are indifferent, skeptical, unbelieving, and corrupt; without a sacred place to gather them, without sacraments and priests, and without a friendly word, they are exposed to new dangers and are seduced by a cunning and very active Protestant and socialist propaganda. They soon forget that little religious instruction they may have received, abandon pious practices, and end up in a desolate indifference, and even in the total loss of faith and morality. Consequently, upon their return to their homeland, they not infrequently boast of irreligion and unbelief, and, what is worse, they themselves become propagators of impious and subversive doctrines. This most sad state of affairs did not escape the watchful vigilance of the Holy Father; who, on several occasions, called the attention of some of the Bishops from Upper Italy to this matter, where temporary emigration is usually more numerous; and after pointing out to them the serious risks that Italian emigrants run, especially in Switzerland, He urged them to take care of them.

[*Latin ed. p. 216*]

216 FROM THE VATICAN, seriously, indicating also the appropriate means; such as, for example, the sending of Missionaries, the collection of funds through special collections, and the organization of a work dedicated to assisting the Missionaries. Very noteworthy is the circular addressed on May 18th of last year, 1899, to the Archbishops of Milan, Turin, and Vercelli, with which it was also recommended that the emigrants receive a more solid religious education and formation in their homeland, which would serve to support them and protect them from the seductions to which their faith and their practice of religion are exposed in foreign countries. Moreover, on several occasions, the Most Holy Pope deigned to personally address this matter, both with the Swiss Bishops, to whose dioceses Italian workers are directed, and also with the simple Missionaries, whom He did not fail to praise, encourage, and also assist with material aid. Such loving concern from His Holiness certainly did not remain without effect. Several Bishops, indeed, obedient to the desires of the Holy Father, hastened to send abroad, and particularly to Switzerland, some zealous Priests, entrusted with the task of assisting, spiritually, morally, and also materially, the numerous Italian emigrants. Some Italian and foreign clergy, of their own free will and through private initiative, with commendable zeal, dedicated themselves, some permanently and others periodically for a few months of the year, that is, during the time when Italians are working and present abroad, to the same holy endeavor, going to the centers of emigration to administer the word of God and the Holy Sacraments to the workers gathered there. Some even managed to found, among the Italian workers themselves, Catholic societies and institutions, with the aim of opening chapels and schools, of providing for their economic improvement, and of preventing mixed marriages. Moreover, in Upper Italy, some

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Committees of generous and benevolent souls were established, with the aim of providing the necessary means to support the work of assisting the emigrants and to give it a stable form and greater development. Furthermore, recently, Consortia of parish priests were formed, with the intention of providing help to their own emigrant parishioners in Switzerland; both by ensuring that they receive the Holy Sacraments before their departure, and by distributing to them religious objects, newspapers, books of piety, and pamphlets of wholesome and pleasant reading; and also by ensuring that outside.

[*Latin ed. p. 217*]

From the Vatican, 217 of Italy, let them not remain isolated, but let them be united in groups presided over by a leader, who must inform his parish priest of the place where they have found work, the name and address of the nearest Catholic priest, so that the presidency of the Consortium itself may be able to communicate with him; let them be obligated to visit the emigrants at certain times of the year and to give them appropriate catechetical instruction and to comfort them with the Sacraments; and finally, let them collect donations in their respective parishes in favor of this holy work. However, as the grave dangers in which the poor Italian emigrants find themselves are increasing every day, His Holiness, to whom nothing is more important than the salvation of souls and the moral and material well-being of so many of his children, and for many reasons particularly dear to him, truly desires that, in proportion to these dangers, the means of preservation, assistance, and protection should also increase on the part of good people. Therefore, the Supreme Pontiff, while highly praising all that has been commendably accomplished thus far for the benefit of the emigrants themselves, and also understanding the urgent need for new and prompt measures, in order to make the cooperation of so many good intentions, which have been manifested thus far in favor of such a holy purpose, even more effective, and to obtain further cooperation, has ordered me to write to all my Metropolitan Archbishops of Italy, so that, where such emigration occurs, in agreement with the co-provincial Bishops, they may propose those measures which they believe to be most appropriate and advantageous. It is also the will of His Holiness that the Metropolitan Archbishops should report to the Holy See those measures that have already been adopted in the provinces for the benefit of this beautiful work of zeal and charity. In communicating to Your Eminence, with regard to what concerns you, the aforementioned desires of His Holiness, I am pleased to confirm my sentiments of distinguished esteem for Your Eminence. Rome, 19 June 1900.

Your Servant,

M. CARD. RAMPOLLA.

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[*Latin ed. p. 218*]

218 FROM THE DECREE CONCERNING REGULAR DISCIPLINE: A QUESTION: Can secularized religious enjoy and retain ecclesiastical benefices? The Bishop of N. proposed three questions to the Holy Congregation concerning Regular Discipline in a letter dated January 14, 1899. 1. Do perpetually secularized religious possess the authority to accept and retain ecclesiastical benefices, or prebends, or even to exercise pastoral care without the authorization of the Apostolic See, solely by a simple decree of perpetual secularization? 2. Are institutions of parishes and canons, composed solely of perpetually secularized religious, exempt from the requirements for holding benefices, even though they are legitimately established? 3. Finally, can they themselves remain in possession of benefices as legitimate possessors? And the Holy Congregation, having carefully considered these matters, responded on January 31, 1899, as follows: To the first question: No. To the second question: There are no valid investitures in such cases. To the third question: No, and they must appeal to the Holy See for regularization, validation, authorization, and the granting of faculties. A QUESTION: Can a religious, duly promoted to a parish, draw the revenues of a benefice? The Bishop of N. proposed a question to the Holy Congregation in a letter dated February 3, 1899: "Whether the parish priest M., perpetually secularized and legitimately instituted to the care of souls, can draw the fruits of the parochial benefice; and to what extent?" To this, the Holy Congregation responded on February 21, 1899: Affirmative, to the first part; to the second, only for his proper and suitable support.

[*Latin ed. p. 219*]

219 FROM THE APOSTOLIC PENITENTIARY DECREE concerning the indulgences granted to the Basilica of Loreto during the current Holy Year. At the request of the Bishop of Loreto, the Apostolic Penitentiary, on December 20, 1899, having received authority from His Holiness Pope Leo XIII, decreed that the indulgences, by which the Basilica of Loreto is enriched, should remain valid according to the form of the grant given on July 23, of the year 1824. The form of this grant for the Jubilee year of 1825 is as follows: "We grant that all indulgences, remissions of sins, and relaxations of penances, granted to those who visit the Most Holy House of Loreto, by any Roman Pontiffs or by the Apostolic See, during the Jubilee year, may be valid and may have their effect, and may be of benefit to the faithful in all things and through all things, as if a suspension (of indulgences) had not been issued by Us, either specially or generally." DECLARATION: It is declared that, during the Holy Year, the indulgences and privileges of the Holy Land are not suspended. Reverend Father, Your Eminence received, through the office of Your Procurator General, on February 14th of last year, certain doubts proposed by the Custodian of the Holy Land concern-

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ing the suspension of indulgences and privileges during the Jubilee year. Now, the Apostolic Penitentiary, to which the aforementioned doubts were presented, has responded as follows: "REGARDING 1. – In accordance with the Bull of Pius IV, *Divina disponente desmentía*, of July 17, 1561, the indulgences granted in the Holy Land remain valid in that place, and are also confirmed and remain valid this Jubilee year. "REGARDING 2. – With special and express Apostolic authority, We benignly grant that the privileges granted by the Holy Penitentiary to confessors remain valid and are confirmed this year, for the benefit of all pilgrims in the Holy Land."

[*Latin ed. p. 220*]

220 FROM THE APOSTOLIC PENITENTIARY: The undersigned Secretary of Propaganda, while hastening to communicate to Your Eminence the response of the Holy Penitentiary, so that Your Eminence may be pleased to convey it to the Reverend Custodian of the Holy Land, takes advantage of this opportunity to offer his most humble greetings. Rome, April 2, 1900. LUIGI Dev.mo Servo VECCIA, Secretary.

• FROM THE OFFICES OF THE VICARIATE OF ROME: A DECLARATION: Those who are beneficiaries in Rome are excused from the obligation of choral duties, who are engaged in the sacred ministry of hearing the confessions of pilgrims. From the audience of the Holy Father, on August 3, 1900. The Holy Father, graciously receiving a petition presented to him by the Reverend Director of the Committee for the spiritual assistance of pilgrimages, has deigned to dispense from the choral office, for days and hours, those Canons or beneficiaries of the Churches of Rome who, approved for the ministry of Confession, under the guidance of the aforementioned Director, dedicate themselves to hearing the confessions of pilgrims during the Holy Year, in any church of this diocese. — S. Card. VANNUTELLI.

In accordance with the intentions of the Holy Father regarding the granting of this indulgence, we exhort all zealous priests, not hindered by other necessary occupations, to wish to join those generous individuals who strive to ensure that the Holy Year produces abundant fruits of virtue in the pilgrims, who, perhaps more numerous than in the months past, will come among us to obtain the Jubilee. Rome, from the Vicariate, August 28, 1900. P. Card. RESPIGHI. Can. CHECCHI, PIETRO, Vicariate Secretary.

[*Latin ed. p. 221*]

221 FROM THE SACRED CONGREGATION OF THE ROMAN AND UNIVERSAL INQUISITION: A QUESTION: Whether marriages can be celebrated before foreign legations, just as they are celebrated in the kingdoms represented by those same legations. Most Blessed Father, the Bishop N. N., prostrate at the feet of Your Holiness, humbly presents the following: Berta, a Catholic woman, entered into marriage in Italy, in the residence

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of the English Legation, with a man of that nation, according to the rites and form of the Protestant religion or sect. This woman has resided in this diocese for twenty years and has always presented herself as a widow, although she has not been able to obtain reliable documents that confirm the death of her spouse. Now, she desires to enter into a Catholic marriage, and to emerge from the concubinage in which she lives most wretchedly; and since she cannot prove her state of widowhood, because, according to presumptions, her spouse died in the city of London, and no one is present who can give testimony about this, she urgently requests that she be declared free, because the marriage, of which we speak, was entered into in a place where the Tridentine Council was held, and the Holy See has declared the marriages of heretics or mixed marriages to be null and void, and therefore, they should not be considered valid. But a doubt arises concerning this nullity, because the marriage was celebrated in the very residence of the English Legate in Italy, and with the assistance of a non-Catholic minister attached to that legation; therefore, I earnestly beseech Your Holiness not to disdain to resolve the following question: Whether the marriage mentioned above should be considered null, so that the woman in question may be able to enter into other marriages, even if the death of her former spouse is not proven. And God, etc. Thursday, August 1, 1900. In the General Congregation of the Roman and Universal Inquisition, before the Most Eminent and Most Reverend Cardinals, General Inquisitors, concerning the aforementioned question, and after the presentation of the Most Reverend Fathers, Cons-.

[*Latin ed. p. 222*]

222 From the decree of the Holy Office, at the request of certain individuals, the same Most Eminent and Reverend Fathers were ordered to respond: "Affirmatively." On the following Thursday, the 5th day of the same month and year, during the customary audience granted by His Holiness Pope Leo XIII, with His Eminence the Cardinal Prefect as Assessor, His Holiness was pleased to approve the resolution of the Most Eminent and Reverend Fathers. The Instruction for Greek-Rite Bishops, prepared by the Reverend Father Mancini, S.J., and the Reverend Father L. Notarius, was presented, containing the following responses to the questions posed: I. Whether it is permissible for Catholics to call a schismatic a "catechist" for the purpose of instructing the religious students of his own sect. II. Whether a schismatic can be called a "catechist," if he is obligated only to teach the common doctrines of Catholics and schismatics, leaving aside his own particular doctrines. III. Whether mixed schools of Catholics can make use of the services of non-Catholic teachers for the instruction of languages, natural sciences, and mathematics, if there is an urgent need. IV. Whether, in cases of urgent necessity, books by non-Catholics can be used. Most Illustrious and Most Reverend Lord, In the general meeting of the

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Most Holy Congregation of the Holy Office, held on Thursday, the 20th of June, the matter of schools in this region was brought before the judgment of the Most Eminent Cardinals and myself, General Inquisitors. It is no secret to Your Eminence that this matter has been under consideration for some years; the Most Eminent Fathers, in order that in a matter of such importance, as is the proper instruction of youth, there may be no room for doubts or anxieties, after discussing all matters with due diligence and maturity, have ordered that these norms be presented to Your Eminence. Since, due to the particular circumstances of the place, it is not advisable to prevent the attendance of schismatic students at Catholic schools, you should remember that this is permissible to the extent that such a mixture and association does not cause the school to cease being Catholic, nor does it violate the rights of natural or divine law.

[*Latin ed. p. 223*]

From the Sacred Congregation of the Holy Office, 225: It is to be understood that the morals, and especially the faith, of Catholic students are in every way endangered. Therefore, in the first place, it must not, under any circumstances, be permitted that a schismatic be appointed as a catechist for the religious instruction of schismatic students by Catholic school administrators, even if it were done under a tacit or even explicit condition that the schismatic catechist (who could demand far less from a Catholic catechist) would only teach what is common to Catholic and schismatic doctrine. In order that no occasion be given for complaints from the schismatics, Catholic administrators may, with regard to this matter, adopt a passive stance, namely, that schismatic students be instructed by schismatic catechists, at their own expense and in a place, as far as possible, separate from Catholic schools; or that, together with Catholic students, they be taught Catholic doctrine. Furthermore, it cannot be permitted, due to the manifest danger to which Catholic adolescents would be exposed, that metaphysical, ethical, or other similar sciences or disciplines be taught by non-Catholic teachers. "For the authority of teachers, which has great power over the minds of young people (as this very Supreme Congregation has already noted elsewhere), draws them, by a certain natural force, to approve of everything they see and hear from them, so that their indifference towards religion, their own errors, and even heretical opinions, and contempt for the Catholic religion, infect tender hearts with a poisonous breath, extinguishing all warmth of piety and corrupting them thoroughly." On the other hand, it is not inherently forbidden to employ non-Catholic teachers to teach languages or natural sciences or mathematics, or other subjects that are entirely distinct from religion, provided that they are under the supervision of Catholic administrators. Therefore, if, due to particular circumstances of a place, true necessity demands it, it may be tolerated to make use of such teachers, provided that, with due precautions taken to ward

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off all dangers to Catholic students, their services can be utilized. Finally, with regard to books, namely, profane works written by non-Catholics, it is not inherently forbidden to use them, provided that they contain no error, or, if they do contain errors, they have been corrected. With these things in view, the Sacred Congregation hopes that, according to the particular needs of these places, and with due regard for the natural...

[*Latin ed. p. 224*]

224 FROM THE SACRED CONGREGATION ROTAL and UNIVERSAL INQUISITION, by divine law, you can readily resolve all matters. Should any other doubt arise, do not burden us again. In the meantime, I pray that the most fortunate and blessed things may come from the Lord to Your Eminence. Given in Rome, on the 28th of August, 1900. LUCIDUS M. Card. PAROCCHI.

A DOUBT concerning Ordination, in which the first and second imposition of hands was omitted, which was remedied sufficiently after Communion.

Most Reverend Father, Bishop N. N., prostrate at the feet of Your Holiness, humbly presents the following:

In the Ordination of June 9th, 1900, in which Titius was promoted to the priesthood, the ordaining Bishop and the assisting priests omitted both the first and the second imposition of hands, although the prayer "Oremus, fratres carissimi etc." was recited.

When then the "Communicantes" of the Canon of the Mass was reached, the Master of Ceremonies pointed out the omission, and the Bishop, having been informed of it, considered it appropriate to postpone the aforementioned impositions until after Communion.

Then, and precisely before the words of the Pontifical, "Iam non dicam vos servos," both the ordaining Bishop and the assisting priests performed both impositions of hands, repeating at the same time the entire prayer "Oremus, fratres carissimi etc."

After this, the rite was resumed at the words "Tam non dicam vos servos" until the end.

Therefore, the petitioner humbly asks whether such an ordination is valid; and, if not, what must be done to remain at peace.

Feria IV, August 22nd, 1900.

In the General Congregation of the Sacred Roman and Universal Inquisition, held by the Most Eminent and Reverend Cardinals Inquisitors, after the aforementioned matters had been presented, and with the vote of the Reverend Consultors preceding, the same Most Eminent and Reverend Fathers ordered that a response be written:

The Ordination must be repeated in its entirety, under the condition that it be done secretly, on whatever day, with the words spoken to Your

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Holiness, but that the impositions be supplemented.

[*Latin ed. p. 225*]

From the Sacred Congregation of the Holy Office, number 225, concerning the treasury of the Church, regarding the offering made for Masses celebrated, as in the present case. On the following Friday, the 5th day of the month of June, in the year of Our Lord 1837, during the customary audience granted by His Most Holy Majesty Pope Leo, of Divine Providence, Pope, XIII, with the Reverend Father [name obscured], Assistant, the Most Holy Fathers approved the resolution of the Sacred Congregation and graciously granted the favor.

I. CANONICAL QUESTION: Whether the concessions granted to the Most Reverend Bishop and to the Reverend [name obscured], Inquisitor, are to be understood as having been granted by the Ordinary.

The Reverend Father [name obscured], Vicar General of [city name], prostrate at the feet of His Holiness, humbly presents the following:

By decree of the 23rd of April, 1898, the Sacred Office declared that, from that time forward, all the customary faculties of the Holy See should be directed to the Ordinaries of the places; and by "Ordinaries" are to be understood the Bishops, Administrators, Vicars General and Capitulars, etc.

Furthermore, by another decree of the 23rd of June, 1898, the same Sacred Office granted that even the faculties granted to the Bishops previously to the aforementioned decree of the 20th of April, 1898, should be understood in the sense of that decree.

Therefore, it is asked whether, subsequently to the aforementioned decree of the 20th of April, 1898, the faculties granted not to the Ordinary, but specifically to the Bishop, should also be understood in the sense of the said decree.

Et cetera.

On Thursday, the 9th day of September, 1900, in the General Congregation of the Sacred Congregation of the Holy Office, held by the Most Reverend and Most Reverend Cardinals, General Inquisitors, after the aforementioned question had been presented, and with the vote of the Most Reverend Consultors having been heard, the same Most Reverend and Most Reverend Fathers ordered that a response be given: Affirmative.

On the following Saturday, the 7th day of the same month and year, during the customary audience granted by His Most Holy Majesty Pope Leo, of Divine Providence, Pope, XIII, with the Reverend Father [name obscured], Assistant, the Most Holy Fathers approved the resolution of the Sacred Congregation.

I. CANONICAL. MANCINI, Sacred Congregation of the Holy Office,

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Notary. From the Acts, Volume XXXIII, page CCCLXXXVIII, 15.

[*Latin ed. p. 226*]

226 FROM THE SACRED CONGREGATION OF THE HOLY OFFICE: A QUESTION FOR INVESTIGATION: Whether a penitent, who is unable to access the confessional, can be absolved from reserved sins by the Pope himself. Most Blessed Father, Regarding the absolution of reserved sins, the Sacred Congregation of the Holy Office, on November 9, 1898, decreed the following: — "When neither the confessor nor the penitent can send a letter to the Holy Penitentiary, and it is difficult for the penitent to approach another confessor, in this case, the confessor is permitted to absolve the penitent even from sins reserved to the Holy See, without the obligation of sending a letter." With these statutes, the Bishop N. N., prostrate before the Holy See, humbly inquires: Must the obligation of sending a letter cease by imposing a writing impediment on both the confessor and the penitent; or is it sufficient, as some have interpreted, that the penitent, being unable to write, cannot present himself to the same confessor from whom he was absolved according to the decrees of 1886 and 1897, and it is difficult for him to approach another confessor; provided that the confessor, for the penitent, can send a letter to the Holy See. And so on, etc. On Thursday, September 5, 1900. In the General Congregation of the Sacred Congregation of the Holy Office, held by the Most Eminent and Most Reverend Cardinals, General Inquisitors, after the aforementioned question was presented, and with the vote of the Most Reverend Consultors preceding, the same Most Eminent and Most Reverend Fathers were ordered to give a response: Negatively to the first part; affirmatively to the second. On the following Thursday, September 7 of the same month and year, during the usual audience of His Holiness, Pope Leo XIII, with the Reverend Father D. N. Leonis, Divine Providence, Pope, as Assistant present, His Holiness approved the resolution of the Most Eminent and Most Reverend Fathers. 1. Canon Mancini, Saint Benedict, and the Holy Office. Notary.

[*Latin ed. p. 227*]

227 FROM THE HOLY CONGREGATION FOR RITES OF THE ORDER OF MINORS OF SAINT FRANCIS. Doubts proposed by the editor of the calendar pertaining to the Order of Minor Friars who belong to the Custody of the Holy Land. Father Fabian of Salzeno, editor of the Calendar for the use of the Brothers of the Order of Minor Friars belonging to the Franciscan Custody of the Holy Land, with the consent of the present Custodian of the Holy Land, humbly presented the following doubts to the Holy Congregation for Rites, for proper clarification, namely: I. Whether, in Jerusalem and the surrounding places, where the Basilica Cathedral of the Holy Sepulchre is not fully consecrated, the Office, solely as a titular feast, should be observed among both the clergy, according to the Regular Rite,

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or with a double of the first class without the *Octava*, the Feast of the Most Holy Name of Jesus, in whose honor the Concatenal Church of Jerusalem remains established, and whose dedication is celebrated each year by the same Regular clergy with a double of the second class? II. And in the affirmative case to I, it is asked: whether the titular feast of the aforementioned concatenal church should be observed by the Minor Friars of the aforementioned Custody and among the stated regular clergy, on the 14th day of the month of February, with a double of the first class without the *Octava*, as is done throughout the entire Order of the Seraphim, or on the Sunday, the second after Epiphany, in order to conform with the secular clergy? III. Whether, throughout the entire region of Egypt, the Feast of Saint Mark the Evangelist, who, according to the decrees of the Holy Roman Church of March 16, 1729, and October 11, 1743, is observed as the patron of all of Egypt with a double of the first class with the *Octava*, by those Minorites residing there, should still be observed in this manner today, even if the observance of both decrees has been interrupted for a long time due to unfortunate circumstances and other reasons? And the aforementioned Holy Congregation, with the reference of the undersigned Secretary, and after hearing the opinion of the Liturgical Commission, considered it proper to respond to the doubts presented as follows: To I. Affirmative, according to other decrees. To II. The Feast of the Triumph of the Most Holy Name of Jesus shall be celebrated on the day of...

[*Latin ed. p. 228*]

228 From the Sacred Congregation of Rites, January 14th, and the titular feast of the cathedral church of Jerusalem is celebrated on the Sunday 11 days after Epiphany, according to the respective rite. To the Third Affirmative. And thus it was written. On June 19, 1900. C. CARD. S. ALOISI - MASELLA, Pro-Datary of the Roman Curia, Pro-Prefect. L. © S. DIOMEDES PANICI, S. R. C., Secretary. A QUESTION regarding the use of the Slavic language in the sacred liturgy. Concerning the interpretation of article 1 of Decree No. 3999, or the Letters of the Sacred Congregation of Rites of August 5, 1898, regarding the use of the Slavic language in the sacred liturgy, the following question was submitted to the Apostolic See for appropriate clarification: Whether the privilege of the Old Slavic language has been extinguished due to the interruption of its use within the last thirty years, even in those churches where it is certainly known that they previously possessed the legitimate use of that same language? The Most Holy Pope Leo XIII, having considered the matters presented, and after consultation with the aforementioned Sacred Congregation, to which this matter had been entrusted, was pleased to declare: "That the privilege has not been extinguished for the aforementioned churches, if the use of the Old Slavic language has been interrupted within the last thirty years, not voluntarily, but out of necessity due to external causes, such as

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a lack of Old Slavic Missals or priests skilled in that language." And thus it was ordered to be written and declared, with all other prescriptions of the aforementioned decree or Letters of August 5, 1898, remaining in full force. August 14, 1900. C. CARD. S. R. ALOISI-MASELLA, C., Pro-Prefect. L. * S. f DIOMEDES PANICI, S. R. C., Secretary.

[*Latin ed. p. 229*]

229 FROM THE SACRED RITES OF ROME, or BERGOMEN, concerning the beatification and canonization of the Venerable Servant of God, Teresa Eustochio Verzeri, foundress of the Institute of the Daughters of the Sacred Heart of Jesus. Present were the Most Reverend Lord Paul Leva, Patriarchal Canon of the Basilica of the Vatican, and the Most Reverend Lord Cardinal Lucido Maria Parocchi, Bishop of Porto and Santa Rufina, Relator Ordinary for the Cause of Beatification and Canonization of the Venerable Servant of God, Teresa Eustochio Verzeri. In a plenary session held at the Vatican on the aforementioned date, in accordance with the special dispositions of the Apostolic See issued in the years 1878 and 1895, the following question was proposed for discussion: Whether it is established that the processes, both those conducted by the Apostolic authority and those conducted by the Ordinary authority, are valid, provided that the witnesses have been duly and properly examined, and that the testimonies produced have been legitimately obtained, in the case and for the purpose in question? And the Sacred Congregation itself, having also heard the voice and the written opinion of the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, and having considered all matters carefully, decided to respond: Affirmative, that is to say, it is established, but so that the letter from the Bishop of Lodi should be considered as a supporting element for the granting of grace. June 26, 1900. Subsequently, these matters were brought to the attention of His Holiness, Pope Leo XIII, by the undersigned Cardinal, Pro-Prefect of the Congregation for Sacred Rites, and His Holiness approved and confirmed the response of the Sacred Congregation, and graciously granted the requested grace, as mentioned above. July 9 of the same year. CAJETANUS CARD. S. R. ALOISI-MASELLA, C. Pro-Prefect. Pro-Datarius, L. * S. DIOMEDES PANICI, ARCHIEP. LAODICEN., Secretary. NEAPOLITANA. Concerning the beatification and canonization of the Venerable Servant of God, Sister Joanna Antida Thouret, foundress of the Institute of the Sisters of Charity. The Institutes of Christian charity, which have flourished in recent times in the Catholic regions of Europe, wonderfully demonstrate the mercy of God, which the Holy Spirit praises in His sacred Scriptures, by proclaiming it above all works, and by proposing to men the example of imitation and the promise of reward.

[*Latin ed. p. 230*]

250. The Society of the Holy Family continues to flourish day by day.

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Neither human society nor the religious society can ever forget Vincent, of Weringhof, distinguished by his holiness and his benefits, who was the author and, so to speak, the father of many of these Institutes, and who stands as their patron in Heaven, a fact also proclaimed by the Apostolic See. From the tree which he planted, a shoot has been pruned, which the Lord seems to have blessed so that it may grow and multiply. This concerns the Institute of the Sisters of Charity, and especially its mother and foundress, the Servant of God, Joanna Antida Thouret, whose cause for introduction is being considered by the Congregation of Sacred Rites. In Burgundy, in the parish of Sancey-le-long, in the diocese of Besancon, Joanna Antida was born from pious parents, the third of seven children, who was born on the same day, the 27th of November, in the year 1765, and was baptized and regenerated in the laver of Christ. The girl, more firm of mind than of body, diligently and soberly learned those things which contribute to the perfection of life and understanding. Having been orphaned of her mother, she was forced to take on the duties of the household; at this time, she was placed in danger because of the wickedness of a servant, but, with God's help, she preserved her integrity and vowed her virginity. She assisted the poor and the needy, sometimes with material support and advice, and sometimes by instilling in them the precepts of faith and morals, and she was also appointed by the parish priest to teach catechism to girls and boys. Through these works of mercy, she gradually prepared herself for a state of perfect life. She scarcely felt her religious vocation, but immediately revealed it to her godmother, Mary Sourdos, and, after being approved by her confessor, she also informed her father. With his consent, and not without difficulty, Joanna, on the 1st of November, in the year 1778, at the age of twenty-two, went to Paris. There, she commendably completed a probationary period of about a year in the Vincentian Institute of the Daughters of Charity, and was admitted to receive the habit with the sacred rites. In the hospitals of San Lorenzo near Lingons, and elsewhere among dangerous people, she devoted herself solely to preserving her faith in God and to providing help to the sick, while at the same time avoiding and confounding them. While France was in turmoil and upheaval, and pious societies were being scattered because of the sadness of the times, the Servant of God, so that she might not abandon her holy purpose, fled to Switzerland. After some time, she returned to Besancon, where, having acquired a small house, she established a free school for girls and a pharmacy for the sick, and she took four young women as her companions.

[*Latin ed. p. 231*]

FROM the Sacred Rituals, section 251, concerning labor and office, and Vincent, whom Paul esteemed as a father and teacher, to himself and to others. These are the first foundations of the Institute of the Sisters of Charity, whose reputation rapidly grew, not only among Princes and pastors of the

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Church, but also among the people, so that more and more hospices for the poor, the elderly, the sick, young girls, and infants were entrusted to them, to alleviate the many miseries of humanity, both in Gallia and in Italia, and subsequently in other, even distant, regions. After affairs in Gallia were settled and the Church and its Supreme Pastor regained their freedom, Joanna Antida came to Romam, and submitted her Institute, along with its rules, which had been perfected and written according to the laws of the Daughters of Charity, for Apostolic approval. "By a decree of Pope Pius VII, her religious vows were solemnly professed, while she was residing in Naples, in the house of Regina Coeli, after enduring many adversities in which she constantly maintained the firmness of her spirit, weakened by labors and efforts, and afflicted by apoplectic seizures, once and again, having been duly attended to with the sacraments of the Church, she peacefully rested in the Lord on August 24th of the year 1826. Her remains, with great frequency and piety of the people, were carried to the church adjacent to the house, and after a solemn funeral, they were laid to rest in the chapel of the Immaculate Conception of the Blessed Virgin Mary. Meanwhile, the fame of sanctity which the handmaid of God had acquired during her life, after her death, shone brighter and more persistently each day. Therefore, upon this same fame, an informative process was held in the ecclesiastical court of Neapoli, and presented and properly opened in the Acts of the Congregation of Sacred Rituals, and the Reverend Lord Nazareno Canonico Marzolini, Postulator of this Cause, humbly and with great reverence, offered prayers to the Most Holy Pope Leo XIII, so that a question regarding the introduction of the cause of the Servant of God, Joanna Antida Thouret, could be proposed and discussed within the same Sacred Congregation, with a prior dispensation from the prescribed lapse of ten years and from the intervention and vote of Consultors. After decrees were issued regarding this matter on May 25th of the current year, the writings of the Venerable Servant of God were approved this very year, and after examining the most extensive letters of petition from some Most Eminent Cardinals of the Holy Roman Church and from many Most Reverend prelates, at the urgent request of the esteemed Postulator of the Cause, and also in the name of all the Sisters of Charity who, gathered under the patronage of St. Vincent de Paul, call her Joanna Antida their mother and foundress, and follow her with filial love and devotion, and...

[*Latin ed. p. 232*]

232 FROM THE SACRED RITUALS: The Most Reverend Cardinal Lucidus Maria Parocchi, Bishop of Porto and Santa Rufina, and Relator for this Cause, in the Ordinary Assemblies of the Congregation for Sacred Rites, held on the aforementioned date in Vatican, proposed the following question for discussion: Whether a Commission for the Introduction of the Cause should be appointed in this case and for the purpose in question?

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Furthermore, the Most Reverend and Venerable Fathers presiding over the Sacred Rites, having carefully considered all matters, and having heard the voice and written opinion of the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, judged it necessary to respond: Affirmative, that is, the Commission should be appointed, if it pleases the Most Holy [Father]. July 10, 1900. Subsequently, these matters were reported to the Most Holy Lord Pope Leo XIII by the undersigned Cardinal, Pro-Prefect of the Congregation for Sacred Rites, and His Holiness, having approved the Decree of the Congregation for Sacred Rites, deigned to sign the Commission for the Introduction of the Cause of the Venerable Servant of God, Joanna Antida Thouret, foundress of the Institute of the Sisters of Charity, on the sixteenth day of the same month and year.

C. CARD. S. ALOISI - MASELLA

Pro-Datarius

R. C. Pro-Prefectus.

L. * S. f

DIOMEDES PANICI, S. R. C.

Secretarius.

INFORMATION REGARDING THE QUESTION: Whether the Most Reverend Commission for the Introduction of the Cause should be appointed and for the purpose in question?

And, Most Reverend Lord, after our most beloved Savior, through His death, has redeemed the world from servitude, it was the most provident design of God that the deceptions of the ancient enemy, which are renewed daily among men, should be rendered ineffective. Therefore, great gratitude is due for the fact that, when, through the actions of wicked men, either the faith has wavered, or good morals have declined, He would raise up one or another of His servants, who, through the sanctity of their lives, would bring a present remedy to the civil community, which is already disordered. And this...

[*Latin ed. p. 233*]

From the Sacred Canons of the Ritual, section 235, it has been clearly demonstrated: that in Gallus, when the republic was overthrown and the highest authorities were corrupted, that age deservedly earned the name of an age of terror, because wickedness was the greatest scourge of human society, and therefore thefts, embezzlements, expulsions, and robberies of neighbors and citizens abounded. For there was no charity towards God, nor any towards one's neighbor, as Thomas states, that charity and the fear of God are one and the same, and spring from the same source and

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have the same nature. Therefore, it was necessary to restore the source and habit of charity: this was the work, this was the labor of our venerable Sister, whose most ardent love for God and for her neighbor is still widely known. She, though not outstanding in birth, wealth, or learning, nevertheless surpassed all expectations, so that she was deemed worthy of an easy path to the heavenly honors. I speak of Joanna Antida Thouret, an exceptional promoter of charity among the Sisters. If it is permissible, I would say that God, for a reason, wished to grant this most excellent woman glory at the close of this century, which began with such contempt for the Christian religion, as a pledge of the future time, which I hope will soon smile upon the human race, which, for too long, has been devoid of charity, due to excessive greed for gain and immoderate love of self. Therefore, let the Superiors acknowledge the excellent deeds accomplished by Joanna Antida Thouret, of which no more fitting testimony can be given than that provided by the process completed with the authority of the ordinary court of Naples, which we use in this account; and let them, having acknowledged them, marvel at them, and, I believe, form a favorable judgment about them.

BIOGRAPHICAL ACCOUNT.

In a certain village in the county of Burgundy, commonly called Sancey-le-Long, in the diocese of Bisuntina, Joanna Antida Thouret was born to most pious parents, who were engaged in agriculture, and sometimes worked in the quarries of coria, as the third of seven sons, on the third day before the Kalends of December, in the year 1765; and on the same day, she was bathed in the sacred font, as was the custom of that time. From childhood, she showed a delicate constitution, but a strong spirit, and she proved herself increasingly suitable for all things pertaining to the necessities of life, and to understanding, although she lacked the advantages of a more privileged upbringing.

[*Latin ed. p. 234*]

234. FROM EARLY CHILDHOOD, she admirably fulfilled the duties of a daughter of a family. At that time, the Lady F, through excessive familiarity with an improper servant girl, was in danger of losing her innocence; however, she preserved her chastity through parental vigilance. Therefore, giving thanks to God, she vowed her virginity. She frequently attended to divine matters, avoiding all frivolous conversations, and because she was either tending to the flock or occupied with household duties, she constantly prayed, and her mind was so fixed in contemplation that all were greatly moved. She equaled the charity of God with the charity of her neighbors, for no sorrow, no distress, was beyond her ability to alleviate; for although she had a modest income, she was accustomed to give gener-

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ously to the poor, to reject no one, and to display no arrogance before anyone, even defrauding herself at times, as soon as she received any hungry person. She also diligently pursued the duties of an apostolate. First, she encouraged her brothers, who had been called to the priesthood, in Marne, not to ever abandon their faith or their good morals; then, she gathered the village girls and boys at the will of the parish priest, teaching them divine precepts, and she greatly benefited them with the gentleness of her manners, the prudence of her counsel, and with admonitions, whenever something was needed. But then, the Handmaid of God was called to a condition of a more perfect life. This was first noticed by Mary Sourdon, who had already assisted her in preparing for her first Communion and later declared it. However, the pious wishes of the excellent young woman were thwarted; the father, who was very reluctant to part with his most beloved daughter, all the more because he intended to give her in marriage to a certain outstanding and noble young man who had asked for her hand. He, however, reasoned wrongly; for Joanna rejected the marriage: and therefore, her father was finally forced to yield, and to allow her to obey the divine will, and no longer to oppose it. Therefore, having obtained permission, she secretly and furtively departed, at night, so that no popular uproar would arise due to the excessive affection of the villagers, on the first of November, in the year 1778, at the age of twenty-two, and she went to Paris. There, she entered the religious life in the monastery of the Daughters of Charity, which the blessed Vincent de Paul had founded. She immediately became a most outstanding example to the others through her diligence, her obedience, and her contempt for herself. Indeed, to show that she was becoming more worthy of her vocation each day, she learned the art of writing in the following hours, and everyone was amazed by this novelty.

[*Latin ed. p. 235*]

FROM S. G. RITUUM 235, Eleven months after her entrance into the religious life, permission was granted for her to receive the sacred vestments. Therefore, with the greatest fervor, Joan was invested with the sacred habit, just as the most grievous changes in all earthly affairs were imminent. Meanwhile, in the hospital of Saint Lawrence among the Lingons, where she ministered to the sick, a certain young and popular soldier, suddenly inflamed with love for her, urged her to abandon the vices of the cloister and to join him, now that she was free from military service. And a similar outcome occurred elsewhere a little later, when a man of noble birth was inflamed with desire for her; to which she always firmly resisted, declaring with almost the same words that she wished to belong only to God. She was a most devoted follower of the Catholic faith. Wherever she was, after having aided the sick, she secretly poured forth the prayers that the rule prescribed, lest she converse with priests, confirming the consti-

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tution with an oath, which had given her the name. Among these things, it happened that a large band of heretics arrived in the town of Bray-sur-Somme, intending to bind the sisters with a false oath. Our heroine fled, attempting to scale the walls of Skalitz, but in vain; for the side was struck by a ballista firing fiery projectiles, and as a result, she was seized by a deadly illness. As she recovered, in the presence of those wicked men, who were increasingly opposed to piety towards God, she secretly carried the sacred objects, so that the priests, wandering here and there, might perform the sacred rites. In these matters, although she possessed a youthful appearance, she always managed to escape unharmed, until the calamity occurred that undermined the pious congregations. Then it was necessary to emigrate from her home and from the most beloved companionship. Therefore, she turned her journey towards the Sequani, certain that, having already declared her true intentions, she could more easily devote herself to works of charity among relatives and acquaintances. Therefore, nothing deterred her, neither poverty nor the roughness and length of the roads (for she undertook an unfamiliar journey on foot, for forty thousand paces, without a guide, without help, without resources), and she reached Besancon. There, after a time, she resided with a certain Vannes, a woman well known to her, and then she went to Sancey, to the house of Joan Antide Vestremer, who had received the Holy Infant from the sacred font, and finally, moved by the charity of Joachim, her brother, and in order to bring him back to good works, she stayed with him for a while. But it was of no use; therefore, she entered the congregation that the priest Fontenelles Receveur had recently...

[*Latin ed. p. 236*]

236. Having established her own rule for life, she desired and obtained it. Immediately, pious women, driven away by the machinations of wicked men, pursued her throughout Switzerland. However, our "Heroine" remained in Sancey, where she devoted herself entirely and wholeheartedly to the well-being of the sick. She traveled from one town to another, enduring cold, heat, and storms, in order to provide assistance to the suffering, to teach children the fundamentals of the faith, or to assist priests in difficult tasks due to the constraints of time. What more need be said? The handmaid of God overcame the obstinacy of sinners, vanquished the malice of slanderers, and did not cease from what she had begun until she had left traces of her apostolic charity everywhere. As her illness subsided, she came to Freiburg, where Receveur resided, and followed him as far as Neostadium among the Germans. There, she left the community, with the advice of confessors, because it was less suited to her vocation. Thus, she attempted another journey through the city of Constance, and then again into Switzerland, visited the miraculous Virgin of Einsiedeln, and, having refreshed her spirit, decided to proceed to France. Finally, the handmaid of

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God, weary from her journey, reached the last town in Switzerland, close to the borders of France (Londeron), and she did not arrive there without divine assistance. Having accepted the task of teaching, and shining forth with her customary virtue, she was visited by the priests Cafiby and Bacon, one a Vicar General and the other a parish priest in the diocese of Bisuntina. These men, with the authority they possessed, ordered her, fifteen days ago, to return to her family and to devote herself to restoring the religious life and good morals. Having obtained a small sum of money from her relatives, she returned to her homeland, restored the school, and chose companions. While engaged in these activities, she refused to take the unholy oath that the Republic demanded, scorned threats, and considered them as nothing. However, after a year, circumstances changed; Johanna was given the opportunity to return to Vesontio, and to fully dedicate herself to what she had decided. Therefore, she immediately returned, rented a small house, and established a free school, which was frequented by many girls. To this considerable undertaking, she added four young women, who shared her work and formed the foundation of a community. She chose Vincent de Paul as her spiritual father and teacher, and instructed them to follow his precepts. Thus, in addition to the school, she established a pharmacy, and provided food and drink at fixed times at the door of her house to the poor, visited the sick, and assisted them.

[*Latin ed. p. 237*]

From the Sacred Ritual, number 237, she ordered the brethren to imitate her, being the most outstanding example. Consequently, all the citizens began to treat the Handmaid of God in such a way that those who encountered her on the road would greet her, the people would clear the way for her, they would listen to her speaking, they would obey her instructions, and they would bear her rebukes with equanimity. These things greatly moved the leaders of the city, from whom the Handmaid of God requested the restoration of institutions that had been founded long ago by the generosity of their ancestors, in order that they might be beneficial, instructive, and salutary for the people, which at that time had been completely overturned by civil upheaval. But scarcely had such monuments of charity been created and considered, at the public expense, when the Prefect of the city decided to entrust to her the hospice of Belleoeaux, which served as a prison, a hospital, and a home for the sick, for young people, for the elderly, for the afflicted, for the abandoned, for captives, both of one sex and the other. Immediately, she assumed the responsibility of governing and managing this hospice, and gradually, disturbances and confusion, depravity of morals, and licentiousness, despair, and suffering diminished. Everyone can see that such things, and so many of them, could not have been accomplished separately by her companions, nor could these chosen companions have been deprived of her guidance. Therefore, having briefly

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withdrawn from these affairs, she went to the monastery of the Sisters of the Visitation, which was located in the nearby city of Dole, and there she recalled and wrote down the events that had occurred. When she had finished, she gave them to a certain priest to revise, and then to the Archbishop to approve. At that time, Emperor Napoleon, having restored the Catholic religion in France, ordered that the new and old congregations of sisters who were dedicated to charitable works be gathered together in Paris, so that they might set forth and commend the order of things. The General Assembly was presided over by Cardinal Fesch and by Laetitia, the mother of the prince, who were supported by the arguments of our Heroine, and who generously assisted her and her community, to which they gave the name of the Sisters of Charity of Vesontio, at public expense. Not long afterwards, this community, three years later, was spread more widely throughout the neighboring dioceses, and it multiplied so that the fame of the sisters crossed the Alps and reached the ears of Joachim Murat, who called them to Naples. At the urging of the Archbishop, and at the request of Laetitia, the Queen provided the expenses and transportation, and the Handmaid of God willingly agreed to this, accepting it.

[*Latin ed. p. 238*]

258 Immediately, she departed with her companions. She briefly stayed in Romae, then arrived in Neapoli, where she was brought to her home, which had previously been a monastery of the Canons of the Lateran Palace, almost as if in a triumphal procession. There, she was favored by the king and his wife, who generously provided funds. The house, where she resided, was commonly known as "Regina Coeli," and was situated among verdant gardens, boasting a pleasant location and a suitable church. Moreover, it was adjacent to the city's renowned hospital, "Degli Incurabili," lacking nothing that was necessary, and possessing every amenity. Therefore, with auspicious omens, the Handmaid of God undertook her work, and first, she established a school for girls from the common people. She dedicated herself to the sick and her companions, and on Saturdays, she provided assistance to the poor at the gates. Furthermore, she diligently worked to establish a branch of her sodality in Neapoli, and she encouraged sisters, whether residing in Italia or in Gallus, through letters and exhortations, employing all her strength, skill, and zeal. Meanwhile, Napoleon, who had often plundered and exiled, was overthrown, along with his relatives and kings. Consequently, the princes, whom the civil upheaval had displaced, were restored to their respective kingdoms, and freedom for the Church and the Pope's authority were granted. At that time, our Joanna believed that she would attain a remarkable height and advance the standing of her sodality if she were to visit the Pope and present him with her rules for approval. Therefore, she quickly departed, traveled to Romae, and eagerly sought the approval

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that she eventually obtained from the Apostolic See. Immediately, the Handmaid of God announced, through letters to the Archbishop and other members of the sodality, that she had received approval for the rules, with the exception of a few that the Sacred Congregation of Bishops and Regular Canons had spontaneously altered. However, due to the vanity of the priest Bacoffe, a grievous discord arose, which, until our Joanna resided in Gallus, had been concealed only by frequent vexations. Therefore, the sisters whom she had left in Vesontione began to openly rebel. Pressigny, who at that time governed the diocese of Bisuntinae, aided them with his support, although he was deeply resentful of the Gallican influence, unaware that Joanna had traveled to Romae, especially since the Sacred Congregation of the Eastern Eastern Regular Canons, of which he himself had once been a member, had now placed the sisters under the jurisdiction of the Pope. From that point forward, implacable anger and inexorable disputes arose, which our heroine sought to resolve, and to teach noble young women.

[*Latin ed. p. 239*]

Having completed her novitiate in Naples, she endeavored to proceed to France. Even during this journey, she strove with great diligence to strengthen and increase the sodality, whether in the territories of Savoy, among the Burgundians, or in the outskirts of Lutetiae, which she had sought out, in order to meet with the Archbishop of Besançon, who was also to be present there. Therefore, even if the Handmaid of God had not achieved all that she hoped for, no one should consider the journey fruitless, since it greatly contributed to the growth of the sodality and to her own perfection. She never set a limit to the firmness of her spirit, and she did not weary herself with any labor in order to fulfill her vows. She had not yet returned to Italy when she received news of the death of Pressigny. Shortly after she had arrived in Naples, with the new Archbishop of the Besançon diocese, Villefrancon, although he was somewhat unwell, she persisted more and more, so that he would abandon his intention of leaving, and adopt a better course of action. Therefore, to speak truthfully, the malevolence of these prelates caused the Sisters in Besançon to be separated from the rest of the sodality, so that they, especially our Joanna, whom the Pope had appointed as general moderator, would not flourish. But these labors and anxieties increasingly weakened our Heroine, until, after a repeated stroke, hope for her life was abandoned. Then, having been refreshed by the sacraments of the Church, which she received before her illness, she rested on the ninth day before the Kalends of September, 1826, in the sixty-first year of her age, not yet completed. While she lived, the people venerated her, and with equal, and indeed much greater, honor after she departed to heaven. For no one failed to acknowledge the profound sorrow that her death caused, and neither

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the most distinguished men nor the most noble women were absent who would honor the funeral of the Handmaid of God. The funeral ceremonies were held for two days in the church of the Queen of Heaven, and finally her body was carried to the chapel of the Immaculate Conception of the same church, where she was buried.

CONCERNING HER ENTRANCE INTO RELIGION. We have touched upon the remarkable deeds of Joanna Antida in the account of her life, deeds which brought the Handmaid of God to the present fame, so that a petition was promoted to the Congregation of Sacred Rites for the universal recognition of her cause. For, although from her childhood she inspired hope in all that she would one day become a woman distinguished by the sanctity of her morals, it is certain...

[*Latin ed. p. 240*]

240 The great dignity of the S. G. R. [Sisters of the Good Shepherd] is certainly more assured, as is demonstrated by the fact that, fleeing domestic cares and abhorring the bonds of marriage, the daughters [nuns] dedicated themselves to the congregation, according to the words: "No one who leaves house, or parents, or brothers, or wife, or children, for the Kingdom of God, will not receive much more in this time, and in the age to come, eternal life" (Luke, chapter XVIII). However, before our heroine could attain the fulfillment of her vocation, she endured and suffered much: she patiently tolerated the hesitations of confessors for many days, when an outstanding master of piety did not wish to fill the mind of the most religious girl, until he was certain that she had, by divine impulse, desired a condition of a more perfect life. Furthermore, the parent greatly opposed this, due to an excessive love for her daughter, by which she was horrified at the idea of such a distinction. Therefore, the Handmaid of God acted more out of divine will than out of her own volition; and therefore, having entered the religious life with great hope, she persevered in it to the very end, with the same fervor of spirit, and the same practice of virtues, with which she had surpassed the other sisters from the beginning. It seems fitting to recall the words that Witness III pronounced: "The Servant of God, in her young age, entered the Institute of the Daughters of Charity, in their house in Paris, where she made her novitiate with a spirit of great fervor." And Witness XVII adds: "The Servant of God, after the advice of her confessor, entered the Institute of the Daughters of Charity, in their house in Paris, at the age of 22 years. There she began her novitiate, which was distinguished by the exemplary observance of the Servant of God, by the fervor of her spirit, and by the practice of virtues." Our Joan was an example of all virtues, not only for the younger novices, but also for the more experienced sisters, as Witness II asserted: "She was admitted to the novitiate, during which she distinguished herself as a perfect example of virtue, to the edification of the entire community." One cannot truly desire

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the practice and exercise of virtues, unless he is endowed with virtues, and unless he constantly uses those virtues which are most suited to the conditions of his life, such as nuns fulfilling their vows and rules, enduring hardships with a balanced mind, and resisting temptations. Therefore, from these things, it is clear that the Sisters of the Good Shepherd...

[*Latin ed. p. 241*]

From the Sacred Ritual, section 241, the Servant of God earned the merit of praise from God, if we deem it fitting to believe the frequent testimonies. Hear the testimony of Witness XVII: "The Servant of God wore the religious habit, and during the same novitiate, she was assigned the task of caring for the linens, a task which she performed with great precision, and she had the opportunity to practice Christian patience, for in this task, she encountered a sister of difficult character." Thus also, Witness XVIII: "The Servant of God, while among the Daughters of Charity, was subsequently assigned to assist in two hospitals. While assisting in one of the hospitals, she experienced a grievance from one of the administrators, which was contrary to her vocation. The Servant of God reported this to her Superior, and the Superior assigned her to another hospital." But the times were now peaceful, yet sedition arose, which, though scarcely suppressed by laws, mixed and overturned all orders of the republic; pursuing the best men with sword and exile, and the sacred ministers, bearing fire and other hostile acts. In such turmoil, Joanna Antida acted bravely, endured the calamities manfully, never wavered in her Catholic faith; nor did she cease from her duties, except when all religious families were abolished, and the congregation of the Daughters of Charity was dissolved, and the pious sisters were scattered here and there. We gather the documents of this constancy from the most excellent records. Witness XVII states: "During the French Revolution, the Servant of God was steadfast in the fulfillment of her duties, and she never wished to take the oath that was imposed upon her, nor to communicate with the priests who took that oath." And Witness XXXII states: "The aforementioned manuscript recounts that the Servant of God was expelled by the Revolution along with the other Daughters of her house, and she suffered greatly from the Revolution, to the point of being wounded by a revolutionary." What more? Our heroine, with no abject fear, nor having removed her religious habit, and with no companion, went to her paternal home, and shortly thereafter to Besancon, where, with the same diligence as if she were living in a monastery, she cared for the sick and children. Thus, Witness XI states: "After the house of the Daughters of Charity was suppressed by decree of the Convention, she was obliged to leave it, but she always retained her religious habit, and she went to Besancon, where she opened a free school for young girls and cared for the

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sick." Acts, Volume XXXIII, page CCCLXXXVIII, 16.

[*Latin ed. p. 242*]

tit. EX s. c. RITUUM. Postquam vero Ioanna Antida se Deo immortali inter Filiae a Caritate vovisset, quamvis congregatione invita excessisset, fidem tamen fallere putavit, nisi Deo in aliqua pia sodalitate quomodocumque inserviret: neque occasionem dimisit, etenim cum primum audisset quemdam presbyterum Receveur puellas collegisse eisque iura condidisse, eum confestim in Helvetiam exulantem prosequuta est, ut recentiori congregationi libentissime adscriberetur, metuens fortasse ne sibi illa Christi Iesu tribuere possint: "Jesus said to him: No man putting his hand to the plough and looking back is fit for the kingdom of God." (Lucas IX, 62). Ast Dei Ancilla in hac congregatione perseverare nequivit, utpote quae flagrantissimo proximorum amore urgebatur, pro quibus si oporteret, Domini ad instar, animam suam datura fuisset. Laeto igitur animo obedientiae paruit se Vesontione revocanti, ubi providentissime Dei consilio institutum Sororuma caritate condendum erat, fractae iam civili communitati bonum faustum felixque.

DE INSTITUTIONE CONGREGATIONIS SORORUM ACARITATE. Bonum, faustum felixque humano generi institutum a Ioanna Antida conditum in superiori capite fuisse diximus, at venerandum, salutare necessariumque verius dixerimus. Quid enim caritate sanctius, quid utilius educatione rudibus, auxilio indigentibus, quid mutuo civium amore aptius reipublicae servanda? Tunc vero reipublicae voluptatum omnium effrenata lubido, quod turpe opprobrium ad hanc aetatem manavit, eadem miserrimam ostendebat, sed tantae calamitati, tantaeque iacturae mulier una remedium quaesivit et invenit, animos omnium, qua ipsa caritate urgebatur, perfundi. Auctrix enim haec duo egregia firmamenta suae congregationi peperit, proximorum caritatem, superioribus ecclesiasticis, Romano praesertim Pontifici obtemperationem: his innixum institutum Sororuma Caritate etiam nostris temporibus virescit, quamvis ab initio vehementibus urgeretur tempestatibus, quarum pleraeque Dei Ancillam in vitae fere perpetuitate agitarunt, quod rerum ordine servato persequemur inferius. Congregationis initia, quae historici prodiderunt, in tres aetates dividuntur, institutionis, propagationis, difficultatum, utpote quae, contra ac in ceteris fieri solet, faustis ab initio prodiderunt.

[*Latin ed. p. 243*]

FROM THE SACRED RITUALS, 245, concerning both major and secondary matters, it grew and prospered, although it encountered obstacles and difficulties at times. When the Servant of God arrived at Besancon, guided by divine inspiration, she resolved not to abandon those things which she had learned through experience in the novitiate of the Daughters of Charity, rather than through mere instruction. Therefore, trusting in

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Saint Vincent de Paul, whom she had already chosen as her patron, she established the congregation, and she instructed the members to dedicate themselves to the good of their neighbors; and a large number of young girls flocked to her, for they had heard that she would govern them according to the counsel and precepts of the Handmaid of God. It was necessary, meanwhile, to clothe these young women in garments of the same kind, to bind them with vows, to subject them to rules, and to have them approved and sanctioned by both authorities; and finally, it was necessary to provide the funds with which small enterprises grow: such was the magnitude of establishing a new congregation. However, these things did not deter Joan Antida from her undertaking, for she had, (indeed, having faithfully followed her vocation), placed all her hope in God, remembering these words: "Send them help, O Lord, from your sanctuary, and defend them from Sion: let your right hand sustain them, and your holy arm deliver them." And all who witnessed this confirm that she did not fail, among whom Testis XXXII spoke these words: "The Servant of God went to Besancon, where she rented a house, where she joined herself to other companions, and on April 11, 1799, she began her works of charity, which consisted of helping the poor, namely, providing soup, and soon after, a school for poor girls, and the care of the sick in their homes. On May 3 of the following year, she also opened a second house in Besancon for the same works. On October 15 of that year, with solemnity within her home, the Servant of God, along with her companions, took the vows, distributing to the congregation the crucifix, which is still distributed among us today on the anniversary of the taking of the vows, regulating their lives according to the rules of the Daughters of Charity. In this, the Servant of God had the means provided by divine Providence, and she carried out these things with the full approval of the ecclesiastical authority." When, moreover, guided by divine inspiration, she considered it necessary to write down the rules of her Congregation, she withdrew from all cares, went to Dole, and sought counsel from priests and the inhabitants of that place, not to add to her own wisdom, but to make use of the judgment of others also: "The Servant of God (says Testis XXXI) withdrew to Dole in... "

[*Latin ed. p. 244*]

244 FROM S. C. RITUUM: "In an ancient monastery of religious women, where she wrote the rules of our Institute, and there, by the arrangement of Providence, she encountered certain ecclesiastics, who helped her to organize what she had written." Finally, after being approved by both authorities, our heroine was elected to the highest office in the Congregation, which she subsequently held throughout her life, beloved by superiors, subjects, and citizens alike, for her honorable dignity, her pleasant manner, and her gentle nature. Indeed, she immediately restrained military license, softened captives, consoled the sick, and encouraged those of de-

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jected spirits. Thus, Joanna Antida and her companions became known throughout the land, and the Congregation, which had begun in Besancon, expanded beyond its walls, permeating the entire province, like the seed of soft herbs, which the wind carries and scatters far and wide, until meadows are filled with the colors of various flowers. A fortunate event recently occurred: under the favor of a changed administration, delegations of nuns were convened in Paris to declare their intentions and to present their individual institutions. Among others present was the Handmaid of God, whose prudence and modesty, but especially her fame for her deeds, earned her the esteem and benevolence of the most eminent and most reverend Cardinals Fesch and the Prince of Laetitia, who presided over the council. Therefore, it was decreed in the Parisian assembly that the rules of the aforementioned Congregation should be ratified within the boundaries of the empire, and in order to facilitate the spread of the Sisters of Charity, a large sum of money was paid from the public treasury. It is fitting to adduce testimonies to this effect: "The aforementioned institute was approved by the Archbishop of Besancon, and in 1810 it was also approved by the civil government by imperial decree. After the aforementioned first house was established, the Handmaid of God extended her works to various other sites within the aforementioned diocese of Besancon. In 1810, there were already several other houses outside the diocese of Alet, the exact number and location of which I do not recall." Thus, Witness XXXI, to whom IT suggests: "The work undertaken by the Handmaid of God subsequently experienced great development and remarkable growth, and even the municipalities sought to benefit from the works established by the Handmaid of God. Therefore, it was necessary for the aforementioned Handmaid of God to establish new houses of her Institute. The places to which the Handmaid of God extended her Institute, founding new houses there, were Villecerf, Jannon, and in many other places, the names of which..."

[*Latin ed. p. 245*]

FROM THE SACRED RITUALS, 245: I cannot, in a word, recall that the works of the Institute of our Foundress were everywhere acclaimed as works directed to the greatest glory of God and to the true good of humanity, and that she received temporal means from those very people who requested the opening of new houses. The aforementioned houses were always established under the authority of the respective Ordinaries." Furthermore, the fourteenth chapter testifies to the generosity of the prince: "The Servant of God wrote the rules for the same Institute, which were also recognized by the civil authorities, and the French Emperor granted the Servant of God eight thousand francs." Then, Joachim Murat, a bold emperor and a man of steadfast purpose, having seized Naples by force of arms and by the will of the great Napoleon, either sought to establish his empire over foreign institutions, or, if it seemed opportune, to excite

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the love of his subjects; therefore, for the sake of the welfare, benefit, and good of the people, he invoked the help of the Sisters of Charity, Joyfully Serving. For some time, our heroine was uncertain as to what course of action to take, but she did not believe that it was right for the sisters to delay, until they would devote themselves to the glory of God and the good of their neighbors. Moreover, since she saw that the congregation was already well established and organized, and that another of the sisters had been entrusted with the task of overseeing it at home, she did not hesitate to break with routine and to lead the present group of companions, proceeding towards Naples. This was truly an outstanding example of wisdom and spirit, especially since the other sisters had not easily overcome the difficulties that she herself overcame in Italy, a land so different from France in language, customs, and laws; for nothing is so difficult that virtue cannot achieve it. And I assure you, not out of mere flattery, but from truth, that Joanna Antida celebrated the events in Naples, for the deeds that support her words are evident and plain. Let no one think that Naples was entirely devoid of institutions already flourishing in France; they were present, but, as was the custom of that city, they were governed in a confused and disorderly manner: therefore, it was necessary to adopt a new custom, to establish piety with certain laws, and to define a method of teaching; this work, this labor, our heroine, from her very arrival, immediately and without delay, accustomed herself to undertake with all her heart and soul, for many years. But, being unable to manage her own affairs, lest her plans should fall through due to weakness, it was necessary to work together with both civil and ecclesiastical authorities.

[*Latin ed. p. 246*]

246 By the authority of the Sacred Congregation of Rites, it is known that what was then considered by the most daring minds to be merely a daring conception, was, in its execution, even more audacious, especially since they were fiercely contending with each other after the Roman Pontiff had been unjustly held in custody by the Emperor of the Gauls. However, our Saint Joan did not shrink from this, but, with such skill and prudence, she conducted affairs that she obtained the greatest trust and the most desired approval from the Archbishop, and from King Joachim, she was frequently compelled by necessity to receive sums of money. Furthermore, the exceptional ingenuity of the Handmaid of God in managing affairs, besides what we have already said, was particularly evident when a certain minister of the kingdom wished to alter the constitutions to suit his own desires. Joan, having fled to the King, repeatedly urged him not to allow the Empire of the Gauls and the Catholic Church to be compared, decided, and overturned, all in one; thus, having obtained the concessions she sought through her prayers, she consulted with her community regarding its preservation and its freedom. I could offer much more on these

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matters, but I will use more necessary witnesses, lest I distract those Most Eminent Fathers who are constantly engaged in studies, so that through them the dignity and majesty of the purple may be safely preserved. Therefore, witness II states: "The Handmaid of God was expressly requested to come to Naples by Joachim Murat, who was then governing Naples. The Handmaid of God was desired by him for the hospital of the Incurables in that city. The same sovereign granted the Handmaid of God the house of Regina Coeli in Naples, which had previously been a monastery of the cloistered Rocchettine sisters, and from the aforementioned sovereign she also received temporary stipends. The same Handmaid of God was also entrusted with the infirmary of the educational institution of the Miracles in Naples, and subsequently, in the aforementioned house of Regina Coeli, she opened public schools, and then the educational institution that still exists today. In all of these matters, the Handmaid of God was under the authority of the diocesan authority of Naples." Furthermore, witness XII states: "In 1810, Joachim Murat, King of Naples, requested hospital sisters for Naples from his mother-in-law, Letizia, mother of Napoleon I, and the Handmaid of God accepted the proposal with great pleasure. Therefore, with seven sisters, she went to Naples, where she obtained the monastery of the Rocchettine, previously suppressed, known as Regina Coeli, with the obligation to assist the sick of the Incurables, which she did, and the sisters, sent by the Handmaid of God, went throughout the sick in their homes, in the house of Regina Coeli."

[*Latin ed. p. 247*]

FROM THE SACRED RITUAL, 247: "In her own house, she had alms and food distributed to the poor. The same house of Regina Coeli was opened with the full approval of the diocesan authority of Naples." Finally, witness XVIII reports: "In Naples, from the aforementioned Murat, she received the house of Regina Coeli, which was a monastery of the Rocchettine, and from him she also received certain temporal stipends. In that house, in addition to the assistance to the aforementioned hospital in 1812, she established free schools for poor girls. In 1821, she was urged by the court of Naples to open an educational institution for ladies and those of civil status, which she did."

Meanwhile, events occurred that made it opportune for the Congregation of the Sisters of Charity, which had already been received by some bishops in their dioceses, to be spread more widely throughout the world; for the nations of Europe, united, had overthrown the most powerful and outstanding empire of Napoleon, and had restored the princes whom he had deprived of power, and finally, they had freed the Roman Pontiff and restored him to his desired freedom and former dominion. Therefore, it seemed opportune and timely to submit the constitutions to the Most Holy Father, so that the recently established congregation, having been duly ap-

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proved according to the institutes of canon law, might be enrolled among the religious orders as a source of splendor and honor for the Church. And she accomplished this, and immediately overcame the delays, she hastened to Rome, persevered in her purpose, but, with God's permission, obstacles of every kind, sorrows, and anxieties arose, which were most bitter for the tender mother and excellent teacher, and which affected her offspring and its growth. Let us suffice it to quote the words of witness XXXII: "The Pope, Pius VII, of blessed memory, who approved the rules, wished to make two modifications: that of the dependence on the sole Archbishop of Besanzone, who was the general superior of the institute, ordering instead that the houses of our institute should depend on the ordinaries of the places where the houses existed; and furthermore, he wished that our vows should last until the time the sisters remained in the Institute. After these modifications were made by the Archbishop of Besanzone and the respective clergy, the houses of France were separated from the rest of the Institute, causing great suffering to the Servant of God, to the point that she was not received into the houses of France. The Servant of God, for her part, endured those great pains with a spirit of faith, with admirable resignation." What more need be said? The fame of the congregation, which increased its renown, was, at the order and will of the Archbishop of Besanzone, spread among her sisters, whom...

[*Latin ed. p. 248*]

248. As with others, it is confirmed by witnesses that she was treated inhumanely and expelled. Therefore, the words of Witness 31: "The Servant of God, when she presented herself at the door of the foundation house in B, intending to communicate the rules with the approval of the Pope, having learned that, by order of that Archbishop, she could not be received, did not insist, but with great humility, resigning herself, she withdrew. In that meeting, the Servant of God gave clear proofs of heroic virtues, the fame of which still prevails there to this day." It is said that some philosophers, having lost all their possessions, sustain themselves solely through virtue. Our heroine demonstrated this by example, although she had not lost all her goods. May God, the source and author of all good things, be praised, who was ready to assist his handmaid in her distress: for who, but God, could inspire so much patience in Joanna Antida, who could generate such excellent thoughts, who could dictate such gentle words, with which she used to adorn her letters? But Witness 17 says: "In the archives of our general house in Rome, there exist various circulars and handwritten letters of the Servant of God, addressed to her institute and also to people outside, with whom she was in contact for reasons related to the same institute. There also exists, in print, a catechism for the nuns of our institute, which was written by the Servant of God herself, as I learned from letters from Monsignor Narni, her confessor, who read the manuscript and approved

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it. I, who have read these things in large part, was edified by the sentiments of piety and virtue that are learned from them." It is worthwhile to report the words of Maria Anna Bon, from among the first companions of the Servant of God, which she wrote in a small commentary on the origin of the institute of the Sisters of the Sacred Heart, and which are as follows: "On August 24, 1826, the Reverend Mother Thouret died, she of whom God made use to lay the foundations of this Community, which began on October 15, 1799. Mother Thouret immediately governed it until 1810; she continued to govern it for several years from Naples, first through Sister Christine Menegay from 1810 to 1815, and then through Sister Marie Anne Bon from 1815 to 1820. The Reverend Mother Thouret was filled with great purity of intention, with magnanimous courage; nothing stopped her when she believed she recognized the will of God in a project. She had an excellent heart, she was generous, and she did not hesitate to spend money to do good. She said that she..."

[*Latin ed. p. 249*]

From the Sacred Canons of the Council of Trent, 249: "She would cross the seas, and go to the ends of the earth, if she believed that God willed it, in order to procure His glory there." How much, how briefly expressed! ON VIRTUES IN GENERAL. Soldiers, whose spirit was unconquered, whose courage was bold, and whose fortitude was outstanding, were honored by the name of the brave, and all qualities of this kind were what our ancestors used to call virtues; but in our times, we consider those to be endowed with virtue who, not forgetting that life on earth lasts until death, have fought against the temptations and flatteries of this age, so that they might seem worthy of heavenly honors. Among these, without doubt, our Joannina Antida should be mentioned, who diligently observed divine and ecclesiastical precepts, and most carefully fulfilled her duties and offices, offering herself as an example of all virtues. Furthermore, witnesses agree that the sublime handmaid of God eminently possessed virtues, and that she always showed alacrity with ease, and delight with self-denial, whether in prosperous or adverse circumstances. The virtue of this most illustrious woman shone forth especially in Khenchela, and no one thought that anything could be objected to the name of such virtue. To make this clear, I will discuss each virtue separately. ON HEROIC FAITH. Faith is the foundation of all virtues; and just as, among trees, some roots intertwine, so too, in faith, there appear similarities, that is, the same firmness with which virtue is joined to understanding, the same height, and the same fruitfulness, by which knowledge of mysteries is nourished, and by which a wealth of excellent deeds is produced. Therefore, the necessary conditions of heroic faith necessarily appear in open and obvious ways through external works, about which only the Church is permitted to judge. The handmaid of God left behind countless examples of this. St. Augustine considered faith to

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be the source of prayer, and to pour forth prayers, to obtain the firmness of faith in prayer. It is said that the handmaid of God prayed with such fervor that she even moved those who were reluctant by her example. Thus, Witness III: "In attending to holy prayer, she did so with such devotion and with such a spirit of piety, that she encouraged even those who were reluctant to practice prayer."

[*Latin ed. p. 250*]

250 FROM S. C. RITUUM, she had the will to pray." Time, which was devoted to contemplation of heavenly things, and which she set aside from her occupations, even abstaining from sleep, was often dedicated to prayer. The Third Witness affirms this with these words: "As for her faith, insofar as it is known to me, and insofar as I have learned from the aforementioned tradition, the Saintly Lady was endowed with a spirit of prayer, to the exercise of which she dedicated all the time she had free from her occupations." The Thirty-Second Witness also confirms this: "It is commonly believed among us that the Saintly Lady, in order to do what she did and suffer what she suffered, must have had a living faith, which is demonstrated by her habitual spirit of prayer, and to which she devoted a great part of the night." But nothing more commends faith than unwavering devotion to the wondrous mystery of the Eucharist, which, if we believe Albert the Great, is raised above nature, above sense, and above intellect. (Compare *Theologiae B. Alberti Magiii* VI, 15). Who would dare to doubt that our heroine was a most devoted student of this Sacrament, when she would never allow herself to sleep before approaching the sanctuary; she would never begin a journey without first attending to the divine matter, or having refreshed her frail human nature with the Bread of the strong? Ask the Eighteenth Witness: "She was most devoted to the Most Holy Sacrament, which she visited often, and she never went to bed unless she had first visited it. She never undertook a journey unless after attending Mass and receiving sacramental Communion." Therefore, even when enjoying the delights of Synaxis, she approached the heavenly feasts with the greatest and most frequent piety, especially on those days prescribed by the rule, and if it was not possible to do so in person, she celebrated the divine, at least in spirit. Hear the words of the Eleventh Witness: "She never neglected to receive her Sacramental Communion on the days prescribed by the rule, and when she could not receive Sacramental Communion, she made Spiritual Communion." The more closely anyone adheres to Christ through faith, the more devoted they should be to the Mother, who is so closely united with Him. Therefore, from her childhood, the admirable Handmaid of God dedicated herself and her innocence to the patronage of the Mother of God; and as time progressed, she led her sisters to the worship of that same Mother, which is the greatest proof of her faith: For, as Saint Lawrence of Justinian says, "If we, in this valley of tears, are devoted

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to her, it is because of our faith."

[*Latin ed. p. 251*]

From the Sacred Ritual, 251, let us call upon the Virgin, let us follow her with our vows, let us join in her hymns, let us offer her praises, that she may recognize her children, that she may free the captives, and that she may enrich the hungry with heavenly delights. (In the feast of the Assumption of the Blessed Virgin). Therefore, the Handmaid of God, on the day that the Virgin was greeted by the Angel, commanded her sisters to make vows each year; she was accustomed to adorn the temple of the Virgin with prayers and flowers in the month of May, and in memory of her sorrowful pains, she ordered that supplications be recited every sixth day. Finally, Mary, under the title "I know not," she used to pray to her daily, reciting a penitential rosary for a full hour each day, and she often opened to her companions brief meditations, which are commonly called mysteries, using carefully chosen words. But let faith be given, not by our words, but by the words of witnesses. For the first witness recounts: "Towards the Most Holy Virgin, the Most Reverend Lady showed a special devotion, and so fervently did she encourage her sisters to the same devotion." The second witness follows: "Towards the Most Holy Virgin, especially under the title of the Immaculate Conception, she showed ardent devotion, and it is a tradition among us that when she recited the rosary, she devoted an hour to it, wishing to add many prayers that she recited at each part of the rosary." Furthermore, the third witness states: "Towards the Most Holy Virgin, the Most Reverend Lady showed great devotion, which was especially directed towards the Immaculate Conception and towards the Annunciation, on whose day she wished that our vows be renewed, a practice that she began from the approval of our rules." The same witness, a little earlier, said: "In attending to prayer, she distinguished herself by the spirit of extraordinary fervor, and she always encouraged her sisters to fervor and devotion in attending to prayer. Towards the mysteries of the Passion of Our Lord, she showed a special devotion, and I know that when she recited the rosary with her sisters, she used to explain each mystery with great fervor and penetration of her spirit, using appropriate little sermons, and she distinguished herself especially in this fervor and penetration, when she explained the sorrowful mysteries." Finally, the seventeenth witness states: "The Most Reverend Lady showed a special devotion to the Most Holy Virgin, under the title of the Immaculate Conception, whom she honored with daily observances. In our church, she celebrated her feast with solemnity; she herself brought the flowers to that altar, and among the other prayers that are recited by our sisters in the evening, there is a special

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prayer to the Immaculate."

[*Latin ed. p. 252*]

252 FROM THE HOLY RITUAL, as an example of the Most Holy Founder, who practiced this so diligently. From the age in which she lost her mother through death, according to tradition, she placed her innocence especially under the protection of the Most Holy Virgin. The Council of Trent, in its twenty-fifth session, teaches that the saints, reigning together with Christ, offer their prayers for God: therefore, it is good and useful to invoke them earnestly and to seek their intercession, help, and assistance. Indeed, the Master rightly teaches that the habit of theological faith is distinguished from others by the cult of the Saints, which the Blessed Lawrence Justinian confirms, saying: "He believes in God who believes in his saints, in whom God speaks." (The Tree of Life, Book 4, On Faith). Thus, following the example of the Handmaid of God, we have arrived at the point where she composed supplications in the names of defenders, which, after supper, she gave to the Sisters to recite, and she established this practice. She also used to, especially during difficult times when undertaking a journey, more frequently invoke her guardian angel for protection, and she did not neglect to seek the patronage of Saint Vincent de Paul (whose spirit she shared). Ineluctable evidence of this is provided by witnesses, whose words it is permissible to recount, gathered from here and there. Thus, Witness I: "She certainly had great devotion to our Protector, Saint Vincent de Paul, and in the rules that she wrote, she imposed upon us the obligation of reciting, after the refectory, a litany in which the saints, protectors of our Institute, are invoked, which demonstrates the special devotion that the Most Holy Founder had towards them." And Witness II: "She also had special devotion towards the Angels and the Saints, especially those of whom our rules speak, such as Saint Joseph, Saint John, Saint Gennaro, Saint Aloysius Gonzaga, and Saint Vincent de Paul; and I must testify, based on what she did, that she greatly shared in the spirit of Saint Vincent de Paul." Finally, Witness XVII: "She placed the novitiate of our Institute under the protection of Saint Joseph. During her travels, especially during the period of the French Revolution, she placed herself under the custody and protection of her guardian angel. She also had special devotion towards Saint Vincent de Paul, under whose protection she founded the Institute: a saint whom she used to call the master of the house of the Institute." In the Second Book of Maccabees, it is written that it is a holy and wholesome thought to pray for the dead, that they may be delivered from their sins.

[*Latin ed. p. 253*]

FROM SACRED CANONS 255 (Chapter XII). The entire faith of eternal life rests upon this single statement from the sacred books; upon this one

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judgment, souls are believed not to perish; otherwise, the prayers, which our blessed Joan so diligently offered, especially concerning the sisters, would have been vain and futile. Indeed, Witness III states: "It is clearly indicated in these regulations the prayer and suffrage for the souls in Purgatory, and it was also ordained by her that, when a sister dies, the other sisters should recite the fifteen decades of the Rosary once, and for a month, they should recite five Our Fathers and Hail Marys, and offer a sacramental Communion." Nor was the faith of this excellent woman confined to sterile works or prayers alone, according to the words: "Not every one who says to me, Lord, Lord, shall enter into the kingdom of heaven: but he who doth the will of my Father who is in heaven" (Matthew, chapter VII, verse 21). It is undoubtedly certain that Joan was sustained by faith, whether one considers the most unjust events that repeated themselves in her memory, or the countless difficulties that troubled her throughout almost her entire life, or, to put it briefly, one considers her entrance into religion, her progress, and her success. For did she not overcome obstacles with faith in her vocation, and endure dangers that often overwhelm even the strongest men, and did she not bear with patience and composure the company of wicked men, indignities, vexations, and even threats of death? Therefore, this most excellent woman did not spare her efforts, nor did she cease her studies, nor did she restrain herself from labor, for the most noble and generous purposes demanded that she give her all. Indeed, the boldness of God's handmaid, her fervent and fearless nature, were of the greatest benefit to her, but she did not yield to impatience. Therefore, it seems fitting to remember what Matthew teaches: "Faith inclines to patience... and from this it is clear that the more intense the faith... the greater is the contempt for present things, the greater the patience in adversity, and the greater the joy in tribulation" (Titus, chapter II, verse 27). Therefore, we believe that the testimonies that abound concerning her life and conduct should be attributed, justly and deservedly, to faith and virtue, and there is no need to offer further arguments beyond those already presented. It is sufficient to say that, as Witness XVII states: "I have learned that the Most Reverend Lady was educated in her father's house; from her childhood, she was innocent..."

[*Latin ed. p. 254*]

254 FROM THE SACRED RITUAL, you, docile and devoted to piety, in Nella. Moreover, in piety and in the exercise of virtues, the Most Holy Lady always grew; her parish priest encouraged the other girls to imitate the Most Holy Lady and to practice with her. But is it not absurd to report these words? "It is said that the Handmaid of God, a woman endowed with the spirit of piety and devotion, so that from her earliest years she impressed her contemporaries, even the very young, with admiration." Nor should we overlook what was asserted shortly thereafter: "Even from tradition, I have

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learned that the Handmaid of God, in the early years of her life, presented herself as an example of Christian piety, and from that time, veneration arose for her. At that time, the parish priest, as I remember, presented the same Handmaid of God as an example to other girls." The second witness confirms that the young woman did not adopt a new character: "Her living faith is clearly evident from her readiness with which she obeyed the calls of God, and from that energy with which, despite the most serious dangers, even risking her life, she carried out the great work. Faith was her guide and her steadfast support in the countless trials of her life, during which she was constantly faithful to God and to her Christian duties. The same living faith is evident from her unwavering attachment to the doctrines of the same faith, taught by the Catholic Church. She always refused, even disregarding the threats to her life, to take the oath for the so-called Civil Constitution, and she took great care not to communicate in any way with those priests who had sworn that constitution, and she also refrained from receiving the sacraments from them and from attending their Mass." The thirty-first witness also says: "In particular, I can say that the vivacity of her faith appeared in her spirit and life of prayer, in her lively confidence in God. In her many tribulations, she always kept the Lord in view, hence her admirable strength in enduring them. From her came the motto that we usually put in our letters: 'God alone.'" So many witnesses spoke of the faith of Joan of Arc, that the matter could be doubted by no one. But her firm and unwavering virtue is evident from the frequent letters in which she used to urge, encourage, and impel her sisters to observe the cult of piety and religion, which was a witness to her. Two books are also noted, written in the form of dialogues, not without knowledge and doctrine of divine things, composed by the Handmaid of God, so that...

[*Latin ed. p. 255*]

FROM the SACRED RITUAL, 255, the didactic precepts would be more easily presented to both boys and girls. But would I remember all the individual words, exhortations, and sermons? Here, I perform the role of a witness rather than a defender. For this reason, Witness II states: "Her circulars also reveal the lively faith from which she was animated, always effectively instilling that of which she was always a model, especially in regard to the mysteries of the faith." And Witness X II confirms the same: "Even from the reading of these same documents, I know that the Servant of God wrote many circulars to her Institute, which, as I have partly read, are full of the spirit of piety and religious observance. She also wrote many letters to the nuns and her confessors, and a printed pamphlet on the Decalogue; and in everything that I have read, I have found nothing that was in any way contrary to Catholic doctrine, but rather I have admired the Catholicity of her sentiments and a certain theological precision." Furthermore, Witness XVIII states: "I know, because it is well known, that there exist letters of

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correspondence and circulars addressed to our Institute from the Servant of God, the originals of which I have not seen, and two small treatises in the form of a religious catechism, one for the benefit of the students in the poor schools, the other for us religious: treatises that exist in print, and which constant tradition attributes to the Servant of God. I have read these writings and have found them full of holy maxims leading to Christian and religious perfection." Therefore, it should not seem strange to you that I say that Joanna Antida Thouret lived from heroic faith, for this is so thoroughly proven by many certain indications and witnesses that there is no further argument to be sought in such a clear matter. However, we still have something to praise in her faith, namely, her obedience in matters of reason and will to the Catholic Church and to the Roman Pontiff, the leader, master, and head of this militant Church, from which the Handmaid of God was not frightened by threats, nor hindered by calumnies, nor led astray by the machinations of wicked men. She constantly expressed the arguments of this most studious obedience, in deed and word, and first, the opportunity arose when she humbly requested and benignly obtained the approval of her congregation's rules from the Apostolic See. Indeed, our Joanna accomplished nothing, did nothing, and thought of nothing, except with the license of ecclesiastical authority. Thus, Witness I: "She always nourished great veneration for ecclesiastical authority."

[*Latin ed. p. 256*]

206 EX. S. C. RITCCJl: "And nothing shall be done concerning our institute, nor concerning the establishment of our houses, without the approval of the ecclesiastical superiors, and especially of the Supreme Pontiff." Furthermore, Testis III: "It is also well known in our Institute that, after the French Revolution, the Most Reverend Lady requested and obtained from the Holy Apostolic See the approval of the rules of our institute. The Holy See approved these rules with the following modifications, namely, that the houses of our institute are directly dependent on the respective Ordinaries of the places, and that the vows are to be perpetual for as long as the nuns persevere in the institute. After these modifications, by order of the Holy See, the Most Reverend Lady suffered many tribulations." This is confirmed by the same witness a little later: "The Most Reverend Lady had a great spirit in the observance of ecclesiastical laws, and this is well demonstrated by the obedience she always showed to the oath that the French Revolution imposed." "She always avoided communicating with schismatic priests, and when she was seriously ill in Paris, she refused to confess to anyone but a Catholic priest, and her attachment to the teachings of the Church was truly heroic. Having learned that Monsignor Lecoz, Archbishop of Besanzone, had taken the oath, she hesitated to entrust him with the general direction of her institute, but following the advice of the spiritual director, she entrusted him with it." Finally, Testis XXXII adds: "In

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a letter signed by the Servant of God and preserved in our archives, one reads with great edification the exhortation that she made to the nuns of France, in which she says these weighty words: 'I am a daughter of the Church, be you also with me.'" Therefore, from these things which we have touched upon in this chapter alone, we do not doubt that the Most Eminent Fathers can be certain that the heroic faith of our Joanna has been demonstrated in many ways, so that there seems to be no reason to doubt.

ON HEROIC HOPE. We have already seen that faith is the foundation of all virtues: now, let us consider hope, which supports the temple of sanctity, like a marble column, and whose firm strength leaves no room for doubt, if we believe what Saint Lawrence Justinian says: "Hope is like a column that sustains the entire spiritual edifice; if it fails, the edifice collapses."

[*Latin ed. p. 257*]

From the Sacred Ritual, 257, the abyss of despair falls. Therefore, heroic hope must rejoice in its firmness, being founded upon the divine providence in human affairs; in its height, so that the soul of mortals may be raised up to heavenly things; and finally, in its solidity, lest it be weakened by the force of adverse things or by any rupture. But neither will hope be firm unless it establishes its foundation in certain things, nor will it be high unless it reaches towards the heavens, nor will it be solid unless it looks to the Lord and attains to His divine will. Truly, our St. John placed the firmest, highest, and most solid foundations, whose hope was entirely placed in God, when matters concerning eternal salvation, or vocation, or the establishment and success of the congregation, were being considered. This is confirmed by Witness II in these words: "Her hope and living faith in God were evident, both with regard to her own salvation, which she always kept in view in all that she did, and with regard to the works that she undertook for the greater glory of God and for the good of souls, and this virtue undoubtedly shone forth in overcoming the countless obstacles and continuous struggles that presented themselves to her, obstacles and struggles that, trusting in God, she overcame successfully." And Witness III recounts: "Her living hope in God and her great faith were evident from what she constantly did for the sake of her own sanctification and eternal salvation, to which she tended with her thoughts and her actions. She also demonstrated this living hope in the work of founding her Institute, for which foundation she had to overcome very serious obstacles and continuous difficulties, and upon which, relying on divine help, she triumphed. Also, in the temporal matters concerning the establishment of her houses and their maintenance, she always distinguished herself by her living faith in God." Furthermore, Witness XI and XII state: "Her hope was extraordinary and her faith in God was living. Although of delicate health, she embraced the religious state with a zeal of faith in God. Driven from Paris by the revolution, she went on foot to Besanzone to escape the revolution.

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She also showed her faith in God in enduring all that she encountered in the establishment of her works and her Institute. She founded her Institute with her admirable faith in God, without human means." Finally, Witness XIII summarizes the other things that can be said about the heroic hope of this most remarkable woman: "She distinguished herself by a living hope and confidence in God, who was always the only one she regarded, in all things, both with regard to herself and her own sanctification and eternal salvation, and with regard to the Acta, Tom. XXXIII, phase. CCCLXXXIX. 17.

[*Latin ed. p. 258*]

25S From the Holy Mother's rituals, the good outcome and progress of her Institute were evident, and from her came the motto proper to our Institute: "God alone." This is what is read in the book of Psalms: "In Thee they hoped, and were not confounded" (Psalm 2:1-6), and it is fittingly applied to the best of the faithful, for it is the custom of the immortal God and supreme governor of human affairs, that He sometimes tests those whom He loves, so that they may be plunged into the abyss of despair. But when the seas especially swell, the diligent Divine Providence is present, calming the winds, composing the waves, and bringing forth tranquility. Therefore, this certainty aided our Joanna, and it was confirmed by events, for the Witness I says: "Concerning the temporal matters of the houses of her Institute, she, with her fervent devotion to God, obtained the necessary means for the maintenance of those houses." This is also confirmed by the XIII Witness: "I know that the Servant of God in Besanzone opened the first house of our Institute, where the Institute itself had its beginnings, and that house was opened by her through means provided by Divine Providence." To this unwavering hope, there still exists the most celebrated fame, if we believe the XIV Witness: "I have always understood that the Servant of God was endowed with all Christian virtues, theological, cardinal, and moral. In particular... of her unlimited devotion to God, through which she was able to overcome the great obstacles that arose before her and to found the great work of our Institute." Indeed, the virtue of which we now speak is related to the obstacles and difficulties that, when they most deter men from their undertakings, demonstrate an unwavering hope, for this virtue alone breaks down the defenses of fear, and incites and kindles mortals to greater endeavors. Among these, Joanna Antida is certainly to be mentioned, whom neither the opposition of her parents, nor the allurements of domestic affairs, repeatedly offered, nor ignorance of letters, nor illness, nor financial hardship, nor even the threats and vexations of wicked men, whom no faith, no memory of good deeds, and no humanity had subdued, could overcome. It is pertinent to mention what the Witness II recounts: "Attentive to these works of charity, the revolutionaries did not spare her, and manifesting their hatred against her, they did not cease to persecute

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her and to threaten her with execution. The Servant of God, seeing herself exposed to the harsh trial of the danger to her life, fled to rural places where..."

[*Latin ed. p. 259*]

FROM the Sacred Ritual, 259: "After a period of wandering and solitude lasting about ten months, she was reduced to sustenance by bread and water alone, and at times she was forced to hide in a more secret place to escape danger. Meanwhile, it happened that another person, also of a revolutionary nature, protected her, as God willed, and insisted that she be left in complete freedom. Because of this arrangement, the Servant of God, having returned from the countryside, freely resumed her works of charity, both for the school and for the assistance of the sick." The same witness, II, recounts: "What is truly astonishing is that the Servant of God, never tiring, in addition to attending to her numerous school, always found time to visit and assist the sick, to whom she devoted all her charitable care, helping them with medicines and other curative means. These two works, namely the school and the care of the sick, were so successful that even the administrators of the charitable works entrusted the distribution of medicines and other assistance to the sick to the Servant of God." Doctor Salesius, teaching the virtues of theology, called fear without hope "desperation," and hope without fear "presumption," which is nothing other than the most certain confidence of obtaining something, having set aside divine help, and relying only on one's own strength. But the Handmaid of God ascribed no wisdom to herself, for she was entirely distrustful of herself, and always obeyed her superiors, especially in matters pertaining to the establishment and governance of the religious congregation and family, as Witness VIII rightly affirmed: "It is well known in our Institute that the Servant of God sought the advice of the ecclesiastics from whom she was always dependent, and with the full consent of the Ordinaries of the places, she began the work of founding her Institute." Furthermore, Witness X: "While in Switzerland, as we also learned from the same people, two ecclesiastics from Besanzone, who had also taken refuge in Switzerland, urged her to return to Besanzone to found an Institute of Charity. The Servant of God obeyed, and, having gone to Besanzone, she opened a house where, accompanied by others, as I recall, she attended to the works of caring for the sick at home, assisting the poor to whom she gave aid, and educating young girls." And Witness XI: "From the aforementioned documents, I have learned that the Servant of God, after giving notice to her Directors, from whom she was dependent, opened a free school in Besanzone."

[*Latin ed. p. 260*]

260. Assisted by three ladies, whose names I no longer recall, she simultaneously, together with these companions, attended to the sick." Nor do

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the words of Witness XV fail to be noted: "Sister Antonietta told me that the Servant of God founded this institution in obedience to the exhortations of a cleric, who, as I recall, appears to have been her parish priest, and the first house of our institute was opened by the Servant of God in Besanzone, as is well known in our institute." Finally, the moderator of the religious family was eager to stir up and urge her daughters to the divine worship, not only by example, but also by words; therefore, understanding that nothing opposes the worship of God more than hesitation and sloth, she had planned to care for these things with frequent exhortations, according to the thought of Ammianus Marcellinus, whose words are: "Nothing is more effective than hope in relieving human weariness" (book 2 on the civil war). "She was endowed (says Witness XVII) with a lively hope and trust in God, especially with regard to her eternal salvation, and these sentiments she always inspired in her sisters." And a little later, the same Witness says: "With the sentiments of her lively hope, she excited and comforted the spirit of her sisters." Witness XXXII also says: "What she did and what she suffered clearly shows the lively confidence in God that she effectively inspired in her daughters, especially in times of adversity." Therefore, from what we have said so far, it seems clear that our heroine possessed heroic hope, which, while she lived, set for herself the ultimate goal of adhering to God as the source and foundation of perfect goodness. And therefore, she certainly and with alacrity and constancy, promised to Him not only the end itself, but also the means and endeavors by which she would attain it, as the Master has taught that these are the qualities and conditions of heroic virtue. ON CHARITY. The Lord, who is both the master and father of the human race, and who fills heaven and earth with His power, made this clearly manifest when, acting through benefits rather than fear, He commanded: "Thou shalt love the Lord thy God with thy whole heart, and with thy whole soul, and with thy whole strength" (Deut. 6:5); which is the first and greatest of the commandments. For nothing is more perfect than divine love, nothing purer, nothing more worthy of esteem, than...

[*Latin ed. p. 261*]

From the Sacred Rituals, 261, let the disposition excel, just as the other metals, but gold is the most precious, to which God Himself equates love, saying to the faithful: "I counsel thee to buy of me gold, fire tried, that thou mayest be made rich and mayest be clothed in white garments: and that the shame of thy nakedness may not appear. And anoint thy eyes with eyesalve, that thou mayest see." (Apoc. 3:18). Therefore, when our Joanna Antida first began to understand, she heard this divine voice, and followed it so that she might surpass even the other young women in her parish in piety. The parish priest was almost reluctant to let her go, lest his flock, entrusted to his care, especially the young girls of equal age, be deprived of such an example. Indeed, the Second Witness states: "The Servant of God showed a

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great inclination to practices of piety and devotion from her childhood, so much so that she was presented as a model to the other young girls by the curate of her parish." And a little later, "According to tradition, the Servant of God showed a great inclination to piety and devotional practices from her childhood, to which she was devoted, and the curate of her parish did not want the Servant of God to leave in order to become a nun, lest he lose an example for the other young women." To this, the Third Witness adds that the Servant of God also disdained worldly things from a young age: "She showed herself to be averse to pastimes and worldly things from the very first age." Nor is this different with the Seventeenth Witness: "She was from the very first age a lover of solitude and devoted to contemplation, to practices of piety." Therefore, the Servant of God was like a garden carefully enclosed, reserved and guarded for those who nourish it, to whom she had dedicated the honor of her virginity, at the age of barely sixteen, after having experienced a slippery temptation. For, as she carried in her heart the inscription that God is the only and infinite good, she surrendered herself entirely to His love from her youth, and she had nothing older than the desire that He be dear and pleasing to her. The Second Witness teaches: "that the Servant of God gave thanks to the Lord for having freed her from the snares of that woman, and I also understood that the Servant of God made a vow of virginity before she had put on the religious habit." Already bound by the covenant of chaste love, our Joanna, still a young girl, burned with such fervor that she overcame the affectionate goodwill of her parents, and rejected the marriage that they themselves offered, yielding nothing to their prayers or admonitions. Thus, the Second Witness states: "The father, as well as other relatives, opposed the will of the Servant of God, and the father, in particular, wanted to..."

[*Latin ed. p. 262*]

262. Despite the pressure from customs and expectations, the Servant of God remained firm in her resolution, often replying that she would not marry, not even to a king. It is evident that her love was solely for God: therefore, imagine with what mind she seized the most excellent opportunity to dedicate herself to God, with what zeal she performed her duties, and with what aversion she rejected repeated proposals of marriage. Let the example of Witness III be cited: "While attending to the sick, she suffered temptations from two young men who urged her to return to the world; and one of those young men even went so far as to offer to accompany her to her father's house, but the Servant of God resisted those insinuations with firmness, paying them no heed." This is also confirmed by Witness X: "While serving the sick, there was a certain doctor, as far as I can recall, who urged the Servant of God to devote herself rather to the affairs of the world, but she did not care at all about that insinuation and rejected it." Nor was it otherwise with Witness XI: "While attending to the

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sick on two separate occasions, she suffered the temptation to enter into the state of marriage, but she would not hear of it, and she would often reply that she was consecrated to God and could not belong to anyone." Since she declared herself to belong to no one but God, it is no wonder that the constancy of her spirit is praised; her fervor, piety, and religion are celebrated with the highest commendation, for this is the perfection of love: to find rest and joy in loving, and to desire no other delights. However, let us hear the words of Witness I: "Her habitual recollection of herself showed her to be a religious entirely united with God, and when she was in the choir for the common prayers, I clearly perceived her spirit of great fervor, piety, and devotion, so that she edified and moved everyone who looked at her." Thomas à Kempis, in his Fourth Book on the Imitation of Christ, considering her ineffable love for the human race, exclaims: "O ineffable grace, O admirable condescension, O immense love, singularly bestowed upon mankind!" (Chapter XIII, 3). For what so clearly demonstrates divine love as this wonderful mystery of faith, in which God Himself is offered to us as food? The divine Eucharist recalls the benefits, remembers the Passion of Christ, and shows us a pledge of future glory: *Et* [and].

[*Latin ed. p. 263*]

From the Sacred Rules, 265: The Eucharist sustains, increases, restores, and delights the religious life. Indeed, the Eucharist so closely unites us with Jesus Christ that it can truly be said that we share one and the same life, that we are inflamed by one and the same charity, and that we are raised up to one and the same glory. Therefore, we must safeguard its life, its charity, and its glory, just as we must safeguard our own, lest we fail to receive any part of so many benefits. Therefore, it should be approached with the most ardent desire, so that the merits of so great a love may be repaid. In this, the Handmaid of God excelled, for Witness XIII teaches: "She never neglected to receive her sacramental Communion on the days prescribed by the rule, and when she could not receive sacramental Communion, she made spiritual Communion." Furthermore, Witness XVII states: "She always kept God and His glory in mind; she was very devoted to the Most Holy Sacrament, which she visited often, and she never went to bed unless she had first visited it. She never undertook a journey unless after attending Mass and receiving sacramental Communion." She also reverenced the other mysteries of the Religion, especially those pertaining to the Most Holy Trinity and to the Passion of our Lord. Thus, Witness XII states: "She fervently encouraged her sisters to be devoted to the mysteries of the Passion of Our Lord, and she always carried on her breast, until her death, the image of the Crucifix." And Witness XVII states: "In the main altar of our house of Regina Coeli, as is our tradition, she had displayed an image on canvas representing the Most Holy Trinity." And a little later, she adds: "She also had a special devotion to the Most Holy

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Cross of Our Lord, and she invoked the Cross as a means of defense against her enemies." No painter has learned to depict all that is in nature; so too, I have scarcely been able to express a few things from those things which our admirable Joanna Antida accomplished for the glory of God: I have omitted her inclination towards the Catholic religion, so much so that she refused to take an oath, even under the threat of death; I have omitted her already celebrated service to the Most Holy Virgin and the poor; and I have omitted her contempt for the highest goods of this world, so as not to bore you with the repetition of these things. But I will not pass over in silence some of the monuments that exist, which testify to her outstanding charity towards God. Thus, Witness XVII says:

[*Latin ed. p. 264*]

264 FROM THE SACRED RITUAL: "In virtue of charity towards God... I declare, according to our constant tradition, that the Servant of God was a soul heroically devoted to God, and this was evident from the tenor of her life, which was constantly distinguished by piety and virtue. The works she instituted and the energetic zeal with which she carried them out are a clear demonstration of her extraordinary charity towards God." Furthermore, Witness XX: "The aforementioned Sister Clarice Mantelli, mentioning the charity of the Servant of God, made it clear to me that her charity was truly extraordinary and superlative, and therefore heroic." To these, it is fitting to add what Witness XXII said: "In particular, concerning the very virtues themselves, I can tell you, according to public opinion in our Institute, that the Servant of God edified us greatly with her virtuous life, and especially in her charity she proved to be heroic, since she spent her life promoting the greater glory of God." And Witness XXXII, recalling the fame of this heroic virtue: "The same tradition teaches that the Servant of God was a heroine in her charity towards God, of which she zealously promoted the greater glory." We have sufficient proof of the heroic charity of this most excellent woman, from the fact that, as a sort of badge and sign of her congregation, she gave it to her sisters and commanded it to be used. Witness XXXI recounts: "From her came the motto that we use on our letters: 'God alone.'" She taught her sisters to direct, guide, and complete everything only in the name of God, for she understood that God is the beginning and the end of both divine and human things.

ON CHARITY TOWARDS NEIGHBORS. He who perfectly loves God must also love his neighbor. For the love of our neighbors is nothing other than love for God through those whom He created and made in His image and likeness; whose nature, character, and disposition appear worthy of so much love, because they reflect the divine. In this way, we also assist the poor: for poverty is threefold, namely, poverty of knowledge, which is called ignorance; poverty of sustenance, which is called need; and finally, poverty of the body, which we usually call infirmity. Our diligent Joanna

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Antida assisted in all three of these forms of poverty, whether by teaching girls, by collecting alms for the poor, or by helping the sick, so that she demonstrated heroic...

[*Latin ed. p. 265*]

FROM THE SACRED RITUALS 265, the history greatly praises the charity of this virgin. Although the house, the orphanage, the shelters, and the hospitals of the Sisters of Charity, which we have before our eyes, abundantly illustrate and confirm this same charity of the Handmaid of God, as they admirably embrace a similar discipline. But in order that the extraordinary charity of this Handmaid of God may shine more clearly, it is worthwhile to bring to mind the manner of her life, as it is unanimously described. Thus, even as a young girl, she was troubled by an unchaste servant, to whom she bravely resisted, which we have already recounted several times. But lest this unfortunate servant suffer any detriment, she passed over the temptation in silence, and she did not denounce her to her stern father, who was very concerned about honor, as is stated in the Second Testimony: "The Servant of God, as a young girl, had to endure the behavior of a person in the service of her family, who was of bad character, but the Servant of God refrained from revealing these things to her father; and later, when he personally knew the behavior of that servant, he expelled her. I cannot tell you the precise reason why the Servant of God did not reveal the conduct of that servant to her father, but as far as I have understood, she refrained from that denunciation out of charity and compassion towards the same servant." Therefore, it is not surprising that we find that the most praiseworthy girl possessed a boundless mercy; indeed, if anything was offered to her, either money or food, she would leave a portion and keep the rest to distribute to the poor: "The Servant of God," says Witness XI, "from her earliest years felt a great inclination towards the poor and the needy, to whom she gave alms and even a portion of her food." This is also confirmed by Witness XXXII: "From the same manuscript, I learned that the Servant of God spent the years of her childhood in her father's house, showing great piety and charity towards the poor, to whom she often gave a portion of her food." And as she grew older, she never abandoned her usual charity towards the poor, whether during the time she remained with the Daughters of Charity, or even after, when, due to the vicissitudes of time, the institute was abolished and the sisters were scattered here and there throughout the world. For she wished to keep, spontaneously, the faith which she had freely promised to God the Most High, without any difficulties, without any vexations, and without any bonds or death.

[*Latin ed. p. 266*]

266. Distressed by the crime of schism, she sought help and assistance for the priests agitated by the Gallican revolt. Let the testimony of Witness

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VIII be heard: "Having left the Institute (of the Daughters of Charity), the Servant of God also worked in France in the education of young girls, in order to keep them steadfast in the Catholic religion. She also visited the sick at home and often provided assistance to priests persecuted by the Revolution." Indeed, when she learned that a certain priest had secretly founded a new congregation, she immediately went there and gave her name, so that she too might contribute to the good of others. But since there was a lack of opportunities for penance there, and a field for active charity was wanting, when she realized this, she immediately withdrew from that society, as Witness II declares: "In her father's house, she learned that Abbot Receveur had established a new female congregation in Fontanelles, and she went there and joined it. But even the house of that Congregation was suppressed by the revolutionaries, and that Abbot moved with the congregation to Switzerland, where the Servant of God, knowing that she could no longer practice her beloved works of educating young people and serving the sick, left that congregation and returned to France, where she began to open schools for the proper education of boys and girls, and the same Servant of God, always faithful to the works of charity for which she had entered the Institute of the Daughters of Charity, devoted the hours she had free from school to serving the sick, sparing herself neither effort nor even the night." The Servant of God is not to be blamed for fickleness or inconstancy, for she did not change her state of life lightly, but for the most important reason, namely, to follow the vocation that she was pursuing, a change of state that was later amply proven by events and by time. The most outstanding monument of this excellent woman's love for her neighbors is the Institute of the Sisters, who are called by charity, which Witness II noted earlier: "The foundation of our Institute and the works that she practiced, and that she left as a legacy to the Sisters, are direct and explicit proof of the heroic charity with which our Foundress was endowed. To this I add, as is well known especially in our Institute, that the Servant of God did not yield to any danger, even to the danger of her own life, for the good and salvation of others, and in the turmoil of the infamous Revolution."

[*Latin ed. p. 267*]

From the French records, it is clear that she was steadfast in doing good, never ceasing, and even in that era, she zealously promoted the glory of God through her works, especially the spiritual and corporal welfare of her neighbors. She aided the sick in hospitals, visited those imprisoned and in asylums, attended to orphanages, and devoted herself to the education of young girls. She ordered a congregation of sisters, like the Lord, according to the words: "In this we have known the charity of God, because he hath laid down his life for us: and we ought to lay down our lives for the brethren." (1 John 3:16). We have a witness, Testis XIV, who testifies: "The works desired by the Servant of God and practiced by her herself are the

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assistance given to the sick in hospitals, to prisoners in prisons, to those in asylums, to orphanages, and the care for the education of young women." The same witness, a little later, confirms that the Servant of God acted similarly in Naples: "In that house of Regina Coeli, the Servant of God gave large alms to the poor who came there. The works practiced by the Servant of God in Naples were very successful and were beneficial to all." And Testis XV states: "In that house [Regina Coeli], the Servant of God opened schools even for the poor, and in Naples, she took care of the sick at home and the poor. To the same Servant of God was entrusted the care of the hospital of the Incurables." To these, we must add what Testis XVI recounts: "In that house [Regina Coeli], she opened schools for the poor and then an educational institution. Every Saturday, she attended to the poor, to whom she dispensed alms... The Servant of God also sent sisters to the three infirmaries of the three royal educational institutions in Naples, for which she also requested." Among other things, Benedict XIV (lib. III, cap. 23-34) recounts, as examples of heroic signs of charity towards her neighbors, the forgiveness of injuries: "In this also, our Joanna shone, who, although she could have had cause to complain against the Archbishop of Besancon and the priest Bacon, nevertheless behaved in such a way that, if anyone did not know the circumstances, they would think that the Servant of God was being harmed rather than harming others." Therefore, the words of Testis are fitting: "The fact was that the Archbishop showed all his aversion to the Servant of God, and when this, having encountered the aforementioned Archbishop in Paris, presented herself to him to throw herself at his feet and reconcile, that Archbishop rejected her and did not want to receive her. Furthermore, the same Archbishop ordered the nuns of the houses in France not to receive the..."

[*Latin ed. p. 268*]

268 FROM THE SACRED RITUAL, concerning her mother... In the aforementioned contradiction, the Servant of God, as I learned from the aforementioned tradition, behaved as a true saint through the acts of virtue that she demonstrated at that time; and when Abbot Bacone, her first opponent, died, the Servant of God, who was saddened by this, ordered general prayers to be said by the nuns of the various houses for his soul. "Nor shall I pass over in silence the praise of the eleventh witness: 'Furthermore, she demonstrated great charity in forgiving her adversaries, towards whom she always showed the utmost charity.'" From these things, which we have considered up to now, it is already sufficiently clear about the admirable charity of this virgin towards her neighbors. However, we also believe that certain things should be noted, which, among us, are considered as ornaments pertaining to this particular virtue; namely, the sweetness of her manners and the most benign humanity, all the more to be praised, because no one, Joanna Antida, was more spirited and fervent by nature.

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Therefore, the nineteenth witness notes: "At the time of the publication of the life of the aforementioned Foundress, which was printed by Abbot Calhiat in 1892, our living sister Clarice Mantelli, speaking with me about Thouret, with feeling praised the spirit of gentleness with which she was animated and the remarkable affability with which she welcomed everyone. It should be noted that Mantelli was a contemporary of the Foundress, from whom she was received into our Institute." But what further witnesses must be produced, what must be emphasized, in order that the charity of the Handmaid of God may shine more clearly? Are monuments, testimonies, and documents lacking? Therefore, I appeal to you, most esteemed Fathers, you who have attentive ears and discerning judgment, and, as is customary, you will decide. ON HEROIC PRUDENCE. To understand, to explore the ultimate purpose of human actions, to indicate the ways, to show and demonstrate, with consideration of time, place, or manner, how all things may be carried out well and prudently, this is the work, this is the labor of this most excellent virtue, which surpasses all others in magnitude, so that it may be compared to salt in food, the eye in the body, the sun in the world. True and perfect prudence is that by which we deliberate, judge, and command concerning those things that pertain to the good end of all human life. Thus, St. Thomas (2-2 q. 47 art. 13), with whom Benedict XIV agrees, teaches that the acts of prudence are three: consultation, judgment, and command. Therefore, from the ordinary process documents...

[*Latin ed. p. 269*]

From S. C. RITUUM 269, it is to be ascertained that the Handmaid of God, from her youth, sought righteous counsel, and subsequently, whether by judging or by advising, she conducted herself well in the perpetuation of her life; therefore, there is no doubt that we should affirm that she was also endowed with this virtue. Therefore, it is pleasing to pursue the details. She had reached the maturity of age, and the Handmaid of God was already drawn by the study of the heavenly nuptials; but, moved by the novelty of the matter, she did not, as is often the case, disturb the home, nor did she stubbornly resist her parent, but she sought refuge with her own mother and confessor, in order to avail herself of their counsel, to which she gave heed, until favorable times arrived: "The Servant of God," says the Witness XVII, "especially in her age of about 15 or 16 years, showed signs of her vocation to the religious life, and she understood this more clearly after having made her general confession. She often spoke with her mother about her vocation, who encouraged her to carefully consider the matter and promised her that, once the will of God concerning the vocation itself was known, she would support and help her... Her confessor, knowing that the Servant of God was called to the religious life, trained and prepared her for that state." Although it may sometimes have seemed that the heroic woman would fulfill her wishes, she never considered it permissible or honorable

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to enter religion, whether one way or another, that first came to her view, but she always submitted her opinion to the judgment of her confessor, being certain that she was not in any way mistaken. Thus, Witness XI: "From the written accounts of Sister Rosalia Thouret concerning the Servant of God, I have learned that the superior of the hospital of Baunle - Ladies, directed a letter to the father of the Servant of God, inviting the same Servant of God to participate in the service of said hospital. The father, who wanted to keep her with him and who repeatedly opposed her vocation, did not communicate this letter to her, but the Servant of God, finding the letter by chance and reading it, discussed it with her parish priest, who was of a contrary opinion, both because of her physical condition and because of the dangers that her spirit would encounter. The Servant of God, meanwhile, showed herself virtuously obedient." Although, as mentioned above, she sometimes went against the opinion of her father, she nevertheless refused to yield by force or injustice, but she sought the counsel of men who were outstanding in experience and wisdom, who opposed the resisting parent.

[*Latin ed. p. 270*]

270 To restore order to the affairs of the Religious Order, she arrived. Hear the already praised Witness: "The Servant of God, having gone with her father to Besanzone, discussed her vocation with a priest who was the confessor of the Carmelite nuns there. This confessor approved the Servant of God's vocation to the religious life, spoke strongly with the father, and compelled him to give his consent." Therefore, we too can affirm with the Witnesses: "The favorable opinion I have of the virtues of the Servant of God convinces me that she entered the religious life in her early youth, practicing all that is dictated by human prudence with regard to the choice of the religious state." As for the second aspect of prudence, which we have only touched upon, we can, without doubt or ambiguity, assert that our Joanna always exercised the most correct judgment, and that, in all those matters in which she sought to promote the greater glory of the divine name, especially in the founding of the congregation and in the establishment of laws and customs, she achieved excellent results. In these matters, therefore, she derived the greatest benefit from the wonderful prudence with which she obeyed ecclesiastical authority and diligently followed its advice. "I know from my own knowledge," says Witness I, "and it is also a tradition in our institute, that the Servant of God founded our institute with due dependence on ecclesiastical authority. She wrote the rules of our institute, rules that received papal approval around the year 1820, as far as I can recall." Nor were the advantages that could have resulted from harmony with civil authority hidden from her, since the congregation that she founded, besides the eternal salvation of her neighbors, also served the public good and the benefit of the citizens. Therefore, Witness X says: "The rules themselves were approved by the Ordinary of Besanzone, and

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they were also provided with civil sanction." What a providentially wise plan! For it is undoubtedly to her that we owe it that the Sisters of Charity, desired rather than tolerated, have been more widely accepted in Gaul, in Italy, and elsewhere; and that the congregation has always been provided with houses, resources, and assistance wherever it is established. In general, says Witness I, "I remember that, while the Servant of God was still living, she extended her works to many provinces of Naples, in several public institutions and in many towns... and these works are..."

[*Latin ed. p. 271*]

"From the Sacred Ritual, 271, it is always stated that [the religious order] has been well received due to its happy success." This is also corroborated by Witness II: "Regarding the temporal means, I testify, based on what I have also learned from the aforementioned tradition, that the Servant of God gathered temporal means for the maintenance and expansion of her houses from the faithful, from the relevant municipalities, and even from the government itself." I can add even more and greater things; and, as far as I am concerned, I believe that the heroic virtue of prudence in this most admirable woman has already been sufficiently demonstrated. However, now, let us consider some aspects of her skill in governing. But what more can be said? Let us hear the witnesses: Witness I states: "Regarding the cardinal virtues, I testify, as far as my memory serves me, and based on the aforementioned sources of my knowledge, that she was endowed with exceptional prudence, both in undertaking and carrying out the founding of our Institute, and in directing it. And it is a fact, according to my personal knowledge, that all my co-religious sisters have always been satisfied and content with the excellent manner in which the Servant of God governed us." What she could not accomplish with her own strength, she attempted through the counsel of prudent men. Witness III confirms this: "In her works, as I have always understood, she consulted with her spiritual director. In our general archive, there is a good number of letters from the confessor of the Servant of God, who was Monsignor Narni, who died as Archbishop of Cosenza, letters that correspond to those that the same Servant of God addressed to him." Furthermore, regarding the exceptional praise for her prudence, with which she governed the congregation during difficult times, we can turn to the words of Witness XVII: "It was also admirable, he says, the prudence with which she governed herself during the serious event of the separation of the house of Besanzone and other houses in France from the rest of the Institute. The exemplary prudence of the Servant of God was the cause that the sisters never did anything without the direction and counsel of their Mother." To these, we must add what Witness XXXI expressed in these words: "There is also in the aforementioned archive an autographed letter from the Servant of God, addressed to her representative in Besanzone. This letter concerns the sisters in the

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house of Bourg, to whom she directs exhortations to exercise patience and prudence in enduring rebukes from the clergy, and it is admirable the prudent manner in which she speaks of these rebukes, without mentioning any specific person." Also, Witness XXXII states: "..."

[*Latin ed. p. 272*]

272 FROM S. C. RITUUM: Regarding what occurred in the matter of the separation of the houses of France from those of the rest of the Institute, she, as I have always understood, never said anything in Italia. Furthermore, prudence teaches that the structures of the wise are formed by carefully selecting the material that appears useful for the work, and then skillfully refining and arranging it. If it is difficult to separate and combine inanimate objects, how much more difficult and arduous it is to force those who use reason, or, as is often the case, ought to use it, and to bring them back to their duty! But in this matter, in particular, witnesses report that the Handmaid of God prudently combined all her cares and diligences, as Witness XVIII states: "Regarding the prudence with which the Servant of God regulated the admission of young women to the Institute, I have always understood that she proceeded in a manner that was well considered, carefully examining them before admitting them, obtaining all information about them. Regarding this prudence of the Saintly Woman, I recall having heard, in the presence of myself and others, Sister Brigida Magnani, now deceased, say that when a young woman is admitted to the Institute, she is like a rough and shapeless stone, and that with patience and charity, one must care for her in order to see the result." Also, Witness I states: "Regarding the admission of young women to our Institute, I know from my own experience that the Servant of God distinguished herself by exceptional prudence in this regard." Finally, I will conclude this section with the words of Witness III, in which the other virtues and more that can be said about the heroic prudence of our Joan are briefly and comprehensively summarized: "Regarding the cardinal virtues, I especially attest, based on what I have learned from tradition, that the Servant of God was endowed with exceptional prudence, which was evident in the handling of the matter of the founding of our Institute, a work that has grown wonderfully, and in the governing of the Institute. It is well known among us nuns that she was always loved, respected, and obeyed by her daughters, because of the way she governed our Institute." This is what I have said about prudence; now I will proceed to the rest. (follows)

[*Latin ed. p. 273*]

ENCYCLICAL LETTER of Our Most Holy Father LEO, Pope XIII, ON JESUS CHRIST, THE REDEEMER.

LEO P. P. XIII. To Our Venerable Brothers, Greetings and Apostolic Benediction.

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Although those who look to the future cannot be free from concern, indeed, there are many and weighty anxieties to be feared, as so many ancient causes, both private and public, persist: nevertheless, it seems that this extreme age has produced some hope and solace through the divine work. Let no one think that renewed consideration of good morals, and the Christian faith and piety, have no importance for the common salvation: for indeed, the signs that these virtues are reviving or being strengthened among many at this time are quite evident. For even amidst the temptations of this age and the many offenses to piety, a large multitude from all parts gathers in Rome at the threshold of the holy Apostles; citizens and foreigners alike openly devote themselves to religion; and, trusting in the Church's indulgences, they more diligently seek the arts of eternal salvation. And what, moreover, could move anyone more than the piety towards the Savior of the human race, which is now more inflamed than usual? In the best times of Christianity, this fervor of spirit will be easily judged worthy, as countless thousands, from sunrise to sunset, agree in will and sentiment, proclaiming the name and praises of Jesus Christ. And may these flames of ancestral religion, bursting forth, lead to a great fire: and may this excellent example move many others, all of them. For what is more necessary for this age than to restore the Christian character and the ancient virtues widely throughout the nations? It is calamitous that so many, and indeed far too many, are deaf, and do not heed those things which are urged by such a renewal of piety. But if they would receive the gift of God, if they would consider that nothing could be more miserable than to have strayed from the Redeemer of the world, and to have abandoned Christian morals and institutions, surely they would rouse themselves, and, hastening along a different path, would avoid certain ruin.

Indeed, to defend and increase the kingdom of the Son of God on earth, and to promote the communication of divine benefits, *Acta, Tom. XXXIII. fase. CCCLXXXIX.*

[*Latin ed. p. 274*]

274. The task of striving that men may be saved is a task of the Church so great and so proper, that in this work, above all others, her entire authority and power are concentrated. We, in the administration of the highest Pontificate, which is indeed most difficult and full of cares, have, up to this day, striven with all our might; but you, venerable brothers, are certainly accustomed, nay, daily, to devote your principal thoughts and vigils to the same endeavor. But both of us must, according to the conditions of the times, strive even more, and especially through the opportune occasion of the year, to spread more widely the knowledge and love of Jesus Christ, by teaching, persuading, and exhorting, if perhaps our voice may be heard, not so much by those who are accustomed to receive Christian teachings with open ears, but especially by all others, the most miserable, who, while

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retaining the name of Christian, live a life without faith, without the love of Christ. We are deeply saddened by these; we wish to consider them especially, and to observe what they do and whither they are headed, unless they repent. To have never known Jesus Christ at any time, or in any way, is the greatest misfortune; but to persist in obstinacy and the vice of ingratitude, to reject or forget what has already been known, is a crime so terrible and so insane, that it scarcely seems possible for it to occur in a human being. For He is the beginning and the origin of all good things; and just as the human race could not be freed without the benefit of Christ, so neither can it be preserved without His virtue. There is no other salvation. For there is no other name given under heaven, in which it is necessary for us to be saved (1). What is the life of mortals? From whence comes Jesus, the power of God and the wisdom of God, who, by His example, teaches Christians what morals are, and what the ultimate things are, which are not sufficiently taught by words? He who remembers even a little, or has glimpsed, the blindness of mind, the corruption of nature, the horrors of superstition and lust, which Paul (2) describes, will surely feel a heart filled with both mercy and horror. These things, which we mention here, are commonly known, but not commonly meditated upon, nor commonly considered. For if the memory of divine benefits were more widely cherished, and if the mind were more frequently reminded of how Christ redeemed man and to what heights He raised him, fewer would be alienated by pride, or weakened by indifference. (1) Acts IV, 12. (2) Romans I.

[*Latin ed. p. 275*]

275. Daily, the human race was being swept towards ruin, entangled in those terrible and other evils which the sin of our first parents had brought forth, and which could be healed by no human means, when Christ the Lord, sent down from heaven, appeared. For He was to be the conqueror and subduer of the serpent, as God Himself had promised in the beginning of the world; and therefore, the ages that followed eagerly awaited His coming with intense expectation. All hope was placed in Him, as the sacred prophets had foretold, and the varied fortunes, deeds, institutions, laws, ceremonies, and sacrifices of a certain people had clearly and plainly foreshadowed that perfect and complete salvation would be found in Him who was to be a priest, and also a sacrificial victim, the redeemer of human liberty, the prince of peace, the teacher of all nations, and the founder of a kingdom that would endure for all eternity. By these titles, images, and prophecies, He was designated in various ways, all corresponding to the truth, as the one who, because of His exceeding love for us, would one day devote Himself for our salvation. When the fullness of the time had come, the Only-Begotten Son of God, made man, abundantly satisfied for us before the Father for the violation of His divine law, and by that most precious price, He redeemed the human race. You were redeemed, not with

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perishable things, like silver or gold, but with the precious blood of Christ, as of a lamb without blemish and without spot (1). Thus, all men in the universe, already subject to His power and dominion, since He is both the Creator and the Preserver, were truly, properly, and completely redeemed, and His own rights were restored. You are not your own, for you were bought with a great price (2). Hence, all things were restored through God in Christ. He has given us the sacraments of His will, according to His good pleasure, which He proposed to establish in the fullness of time, restoring all things in Christ (3). When Jesus fulfilled the chirograph, the decree that was against us, by affixing it to the cross, the heavenly wrath immediately ceased; and the bonds of ancient servitude, which had disturbed and misled the human race, were broken, the will of God was reconciled, grace was restored, the access to eternal blessedness was opened again, and the right to attain and enjoy it was restored, along with the means to do so. Then, as if awakened from a long and deadly sleep, man beheld Him (1) 1 Peter 1:18-19. (2) 1 Corinthians 6:19-20. (3) Ephesians 1:9-10.

[*Latin ed. p. 276*]

276 ENCYCLICAL LETTER: The ardent desire for truth, sought after for so many centuries, was finally achieved: first, He recognized that the goods to which He was leading men were far greater and more magnificent than those perceived by the senses, which are fragile and fleeting, and with which men had previously limited their thoughts and concerns. And He declared that this was the very essence of human life, the supreme law, and that everything should be directed towards this end, so that, having originated from God, men might one day return to God. From this beginning and foundation, the awareness of human dignity was renewed; the sense of fraternal kinship among all was awakened in hearts; then, as a consequence, duties and rights were established, partly leading to perfection, partly newly instituted, and at the same time, virtues were aroused throughout, such as no ancient philosophy could have even suspected. Therefore, plans, actions, and customs took a different course: and as the knowledge of the Redeemer spread widely, and His virtue, expelling the ignorance and vices of the past, penetrated into the very depths of societies, that transformation occurred, which, through the Christianization of humanity, completely changed the face of the world. In recalling these things, venerable Brothers, there is a certain infinite joy, and also great power of admonition, namely, that we should wholeheartedly embrace and strive, as much as possible, to deserve the grace of the Divine Savior. Though we are removed by antiquity from the origins and the restoration of salvation, what does it matter, when the redemption has a perpetual virtue, and its benefits remain perennial and immortal? He who once restored nature, corrupted by sin, will preserve it, and will preserve it forever; He gave Himself as a ransom for all... (1). In Christ all shall

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be made alive... (2). And His kingdom shall have no end (3). Therefore, according to the eternal plan of God, all salvation, both of individuals and of all, is placed in Christ Jesus: those who reject Him, by doing so, privately deprive themselves of salvation, and at the same time, they commit, as far as is in their power, that the very mass of calamities which the Redeemer had averted through His piety, might be hurled back upon humanity in a great and terrible storm. They are snatched away by a vague error, further and further from their desired goal.

(1) 1 Timothy 2:6

(2) 1 Corinthians 15:22

(3) Luke 1:33

[*Latin ed. p. 277*]

ENCYCLICAL LETTER 277, and those who have strayed from the path. Similarly, if the pure and sincere light of truth is rejected, the minds are enveloped in fog, and it is necessary for souls to be widely deceived by the wickedness of opinions. But what hope of health can remain for those who abandon the beginning and the source of life? But Christ is the only way, the truth, and the life. "I am the way, and the truth, and the life" (1): so that, if He is omitted, those three principles, so necessary for all salvation, are taken away. Is it not evident, as the very thing itself constantly demonstrates, and as each one deeply feels even in the midst of the greatest abundance of earthly goods, that there is nothing outside of God in which human will can absolutely rest and be completely satisfied? Indeed, God is the end of man, and all that is lived in this world truly bears the likeness of a certain pilgrimage and the image of the true one. Truly, Christ is our way, because, from this mortal journey, especially one that is so laborious and so uncertain, we cannot reach the highest and ultimate good, God, without Christ as our author and guide. "No one comes to the Father except through me" (2). How could it be otherwise than through Him? Indeed, first and foremost, through His grace: which, however, would be empty in a man who neglects His commandments and laws. For that which was to be accomplished through Jesus Christ, He left His own law as guardian and advocate of the human race, so that, under its governance, men, turned away from the perversity of life, might safely strive towards God. "Go, therefore, and make disciples of all nations... teaching them to observe all that I have commanded you..." (3). "If you love me, keep my commandments" (4). From this, it must be understood that it is absolutely essential in the Christian profession to offer oneself as docile to the commandments of Jesus Christ, and to render to the Lord and supreme King a will that is completely subject and devoted. This is a great thing, and one that often requires much effort, vehement contention, and constancy. For although human nature has been restored by the benefit of the Redeemer, a certain sickness, weakness, and vice still remain in each of us. Various appetites

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draw man hither and thither, and the allurements of external things easily impel the soul to follow what it desires, rather than what Christ commands.

(1) John 14:6.

(2) John 14:6.

(3) Matthew 28:19-20.

(4) John 14:15.

[*Latin ed. p. 278*]

278. However, it must be resisted with all our strength, and we must oppose with all our might the desires that seek to subject us to Christ: for, unless they are guided by reason, they dominate, and they deprive the entire person of Christ, making him a servant to them. Those who are corrupt in mind, and reprobate concerning the faith, do not serve [Christ]... for they serve a threefold lust, either of pleasure, or of excellence, or of spectacle (1). And in such a struggle, each person ought to be so disposed that he considers it worthwhile to endure even hardships and inconveniences for the sake of Christ. It is difficult to repel those things which attract and delight so much; it is hard and bitter to despise those things which are considered good for the body and for fortune, against the will and command of the Lord Christ: but it is entirely fitting that a Christian man should be patient and strong in enduring, if he wishes to bring to fruition that which has been given to him for life. To what body, and to what head, are we members? He who bore the cross for the sake of the proposed joy, commanded us to deny ourselves. And from that very disposition of the mind, which we have mentioned, the dignity of human nature itself depends. For it is not a broken will to command oneself and to make a part of the soul inferior obey the superior, but rather a certain noble virtue, wonderfully fitting for reason, and worthy, above all, of a human being.

Furthermore, to bear and to endure is the condition of human life. A man cannot achieve a life free from pain and filled with all happiness, except by rejecting the plans of his divine Creator, who willed that the consequences of the old sin should remain forever. Therefore, it is fitting not to expect an end to pain on earth, but to strengthen the soul to endure pain, through which, indeed, we are instructed in the certain hope of the greatest good. For it is not through riches or a more delicate life, nor through honors or power, but through patience and tears, through a love of justice and a pure heart, that Christ has assigned eternal blessedness in heaven. From this, it is easily understood what should finally be expected from the error and pride of those who, despising the authority of the Redeemer, place man at the very pinnacle of all things, and decree that human nature ought to rule over everything, in every way and in every respect: although they are unable to attain, nor even to define, what that kingdom is. The kingdom of Jesus Christ derives its power and form from divine charity.

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(1) S. Aug. De vera rei., 37.

[*Latin ed. p. 279*]

ENCYCLICAL LETTER 279, its foundation and its summit. From this, it necessarily follows that one must inviolably observe duties: to take nothing from another by right; to place earthly things below heavenly ones; to place the love of God above all things. But this dominion of man, whether openly rejecting Christ or indifferent to Him, is entirely based on self-love, devoid of charity, and ignorant of devotion. Indeed, man may rule, even through Jesus Christ; but only insofar as he first serves God, and devoutly seeks discipline and guidance from His law. We call the law of Christ not only the precepts of natural morals, nor those which the ancients received from divine inspiration, which Jesus Christ certainly perfected and brought to their highest point by declaring, interpreting, and sanctioning them; but also His entire doctrine, and all the things instituted by Him, specifically. Of these things, the Church is certainly the head; indeed, what things instituted by Christ are not included and contained within it? Furthermore, the Church, through its ministry, which is most excellently founded by itself, has been assigned the task by the Father of enduring; and while, on the one hand, it has brought all the defenses of human salvation into it, on the other hand, it has gravely decreed that men should be subject to it as they are to themselves, and that they should diligently and in all of life follow it as their guide: "He who hears you, hears Me" (1). Therefore, the law of the Church must be sought from Christ; therefore, for man, Christ is the way, and also the Church is the way: He, through Himself and His nature; this, through mandate, function, and communication of power. For this reason, whoever wishes to strive for salvation apart from the Church is deceived by the error of the way, and strives in vain. But the cause is almost the same for private individuals as for kingdoms: for these, in fact, must necessarily fall into pernicious outcomes if they deviate from the way. The human creator and redeemer of nature, the Son of God, is King and Lord of the world, and holds the highest power over men, both individually and collectively. He has given Him power, and honor, and a kingdom: and all peoples, tribes, and languages shall serve Him (2). "But I have been constituted king by Him... I will give you the nations as your inheritance, and your possession the ends of the earth" (3). He must (1) Luke 10:16. (2) Daniel 7:14. (3) Psalm 2.

[*Latin ed. p. 280*]

280 ENCYCLICAL LETTER: Therefore, in human affairs and society, the law of Christ must hold sway, so that it is not merely a private matter, but also a guide and teacher of public life. Since this has been provided and established by divine providence, and no one can safely resist it, it is a grave error for the public good whenever Christian principles do not hold

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the place to which they are due. Without Jesus, human reason is deprived of its greatest support and light: then, the notion of the cause that, by the authority of God, generated the common society, is easily obscured, and this consists primarily in the fact that, with the help of civil union, citizens attain their natural good, but above all, that which is above nature, perfectly and perpetually. With minds preoccupied by worldly confusion, both those who govern and those who are governed stray from the right path, for they lack that which they can safely follow and in which they can find their foundation. In this way, to stray from the path is a miserable and calamitous thing, and is very similar to abandoning the truth. But the first, absolute, and essential truth is Christ, as the Word of God, consubstantial and co-eternal with the Father, He Himself and the Father being one. "I am the way, and the truth." Therefore, if truth is sought, let it first obey Jesus Christ, and let human reason find rest in His teaching, because it is the very voice of truth. There are countless matters in which human ingenuity, like in a most fertile field, can freely explore and contemplate, and this is not only permitted, but even demanded by nature. It is a wicked and unnatural thing to refuse to be contained within its limits, to reject, with undue arrogance, the authority of Christ's teaching. This doctrine, upon which the salvation of all depends, is almost entirely about God and divine things: it was not produced by the wisdom of any human being, but the Son of God Himself received it entirely from His Father: "Because the words which thou gavest me, I have given to them. And they have received them and have known in very deed that I came out from thee: and they have believed that thou didst send me." (1) Therefore, it necessarily encompasses more than what is contrary to reason, for that cannot happen in any way, but also those things whose height we cannot grasp with our thoughts, any more than we can comprehend, in itself, God. But if so many things exist that are hidden and veiled by nature itself, which no human ingenuity can explain, yet of which no one dares to doubt, then those who perversely abuse freedom will not... (1) John 17:8.

[*Latin ed. p. 281*]

ENCYCLICAL LETTER 281, concerning matters which are far beyond the grasp of human nature, which it is impossible to fully comprehend. The doctrines of Nola clearly fall into this category, seeking to deny any truth to the Christian religion. Furthermore, the mind must be subdued and made obedient to Christ, to such an extent that it is held captive by His power and authority: reducing all understanding to obedience to Christ (1). Such obedience is precisely what Christ desires; and rightly so, for God is the author, and therefore, just as the will has supreme dominion over man, so too does intelligence. But when intelligence serves Christ the Lord, man does not serve literally, but rather, in the most fitting way, both for reason and for his own inherent excellence. For he yields his will not

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to the authority of any man, but to the authority of his own Creator and Lord, to whom he is subject by the law of nature; nor does he allow himself to be bound by the opinion of any master, but by eternal and immutable truth. Thus, he gains both the natural good of the mind and freedom at the same time. For the truth, which proceeds from the teaching of Christ, makes clear each thing as it truly is and of how much importance it is; and when a man, having been imbued with this knowledge, obeys the truth that he has perceived, he will not be subject to things, but things will be subject to him; nor will he subject reason to lust, but lust to reason; and, freed from the worst servitude of sin and error, he will attain to the highest freedom: "And you shall know the truth: and the truth shall make you free." (2) Therefore, it is clear that those whose minds refuse the authority of Christ are striving with stubborn will against God. But those who have escaped from divine power will not be more free; rather, they will fall under the power of some human being: for they will, as it happens, choose some one to listen to, to obey, and to follow as a master. Moreover, they confine their minds, separated from the knowledge of divine things, to a narrower circle of knowledge, and they will come to those very things that are known by reason with less understanding. For there are many things in nature which the divine light of doctrine greatly contributes to, either in perceiving or explaining. And often, God allows them to suffer the consequences of pride, not allowing them to see the truth, so that they may be punished in that very thing in which they sin. It is often seen that many, endowed with great intelligence and exquisite learning, nevertheless, in the very exploration of nature, draw such absurd conclusions that no one has erred more severely. (1) II Corinthians x, 5. (2) John 8, 32.

[*Latin ed. p. 282*]

282 ENCYCLICAL LETTER. Therefore, let it be understood that in the Christian life, intelligence must be wholly and completely surrendered to divine authority. And if that elevated spirit, which possesses so great a power within us, is suppressed and grieved in that which yields to authority, it emerges all the more clearly that in the Christian, not only the will, but also the mind, must be willing to endure much. And let us remember this, those who imagine to themselves and plainly prefer some other Christian profession and discipline of feeling and action, whose precepts would be milder, and far more indulgent to human nature, requiring no tolerance in us, or only a small amount, do not understand the power of the institutions of the faith. They do not see that the Cross meets us everywhere, and that a perpetual banner of life will be for all those who wish to follow Christ in deed and in truth, not merely in name. Only God possesses life. All other things participate in life, but are not life itself. But Christ is life, from all eternity and by His very nature, just as He is the Truth, because He is God from God. From Him, as from the ultimate, most august principle, all life

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flows into the world, and will perpetually flow: all things are through Him, and all that live are through Him, because all things were made through Him, and without Him, nothing was made that has been made. Indeed, in natural life, we have touched upon a far better and more powerful life, which we already possess through the benefit of Christ Himself, namely, the life of grace, whose blessed outcome is the life of glory, to which all thoughts and actions must be referred. It is in this that lies the entire power of Christian doctrine and laws, that we, being dead to sins, may live to justice (1), that is, to virtue and holiness, in which the moral life of souls consists, with the hope of eternal blessedness. But truly and properly, and for the sake of salvation, nothing else but Christian faith nourishes justice. The just man lives by faith (2). Without faith, it is impossible to please God (3). Therefore, the author, parent, and teacher of faith, Jesus Christ, is He who preserves and sustains the moral life within us; and this is done primarily through the ministry of the Church, to which He has entrusted the instruments by which this life, of which we are speaking, is generated, preserved, and renewed. The creative power (1) (1) 1 Peter II, 24. (2) Galatians III, 11. (3) Hebrews XI, 6.

[*Latin ed. p. 283*]

EPISCOPAL ENCYCLICAL 285. The same [virtue] which preserves salutary virtues is extinguished if ecclesiastical discipline is separated from divine faith; and indeed, those who most grievously turn man from his highest dignity and from a supernatural life to a natural one, and who wish to direct morals to honesty solely by the teaching of reason, deprive men of much. For although a man can, by right reason, understand and observe the precepts of nature, and even observe them without offense in all of life, yet, unless aided by the grace of the Redeemer, it is impossible for anyone, devoid of faith, to confidently hope for eternal salvation. "He who does not abide in me shall be cast out as a branch, and shall wither, and they shall gather him up, and cast him into the fire, and he shall be burned" (1). "He who does not believe is condemned" (2). Finally, we have abundant evidence before our eyes of how much this contempt for divine faith is in itself, and what fruits it produces. What is it that, in so much effort to establish and increase public prosperity, causes states to labor and almost sicken, daily becoming more and more burdened with so many and such grave matters? Surely, they say that civil society is sufficiently established by itself; that it can function comfortably without the protection of Christian institutions, and that it can achieve its goals through its own efforts alone. Hence, they prefer to administer public affairs in a profane manner, so that one sees fewer and fewer traces of the ancestral religion in civil discipline and public life. But they do not sufficiently perceive what they are doing. For, once the divine authority, which sanctions both good and evil, is removed, the authority of the prince must necessarily collapse,

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and justice must weaken, which are the two firmest bonds and the most necessary connections of civil society. And in a similar way, once the hope and expectation of eternal goods are removed, mortal men are eager to pursue those things of which they can draw as much as possible, and each will strive to the best of his ability. Hence, envy, hatred, and the most terrible schemes arise; then, from a desire for power, they seek to destroy all that is good, and they meditate on widespread ruin. There is no peace abroad, no security at home: common life is deformed by wickedness. In such a struggle of desires, and such a division, either the most terrible destruction is imminent, or a suitable remedy must be sought without delay. To restrain the wicked, to call for gentleness in popular morals, and to deter from crimes by every means, is a provident measure of the laws, and is both right and necessary; but it is by no means sufficient.

(1) John 15:6.

(2) Mark 16:16.

[*Latin ed. p. 284*]

284 ENCYCLICAL LETTER: In all this, the highest healing for peoples is sought: a greater human force must be invoked, one that reaches minds, renews them with a sense of duty, and makes them better; for it is that very force which, once, delivered the world from the brink of destruction, when it was weary from much wickedness. Let the Christians in the realm of the spirit be revived and strengthened, with all obstacles removed; then the realm will be restored. It will be easy for the lower orders to avoid contention with the higher orders, and for both to uphold their sacred rights with mutual respect. If they hear Christ, they will remain fortunate in their duties, both the rulers and the ruled: the former will feel that justice and charity must be shown to them if they wish to be saved, and the latter will practice moderation and restraint. Domestic society will be best when it is governed by the salutary fear of God; and in the same way, in the people, those things will be most effective which are prescribed by nature itself, namely, to fear legitimate authority and to obey the laws: to do nothing seditious, nor to attempt anything through conspiracies. Thus, when Christian law prevails for all, and nothing hinders it, it will spontaneously happen that the order established by divine providence is preserved, from which security and prosperity flourish. Therefore, the common good demands that we must, and it is never permissible to deviate from, refer everything to Him who is the Way, the Truth, and the Life, not just individuals, but the entire human society. Christ the Lord must be restored to this, as if to His rightful possession, and it must be ensured that all members and parts of the republic, the commands and prohibitions of the laws, the institutions of the people, the teachings, the rights of marriage, domestic life, the homes of the wealthy, the workshops of the artisans, draw and absorb life from Him. Let no one shrink from the fact that the very human-

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ity of the nations, which is so earnestly desired, depends greatly on this, since it is nourished and increased not so much by those things which are of the body, by comforts and resources, as by those things which are of the mind, by commendable morals and the cultivation of virtues. Many are more ignorant of Jesus Christ than they are unwilling; for those who devote themselves to worldly pursuits are numerous, while the Son of God is few. Therefore, let us first dispel ignorance with knowledge, so that the unknown is not rejected or scorned. We urge all Christians, as far as each can, to strive that they may know their Redeemer as He is: for whoever looks upon Him with a sincere mind and sound judgment, will see that...

[*Latin ed. p. 285*]

ENCYCLICAL LETTER 285, it is clearly seen that nothing can be more salutary, nor more divine, than this law. In this, it is wondrous how much help the authority and works of you, venerable Brothers, and the zeal and diligence of the entire clergy, will bring. To impress upon the minds of the people the true notion, and almost the image, of Jesus Christ, and to illustrate His charity, benefits, and institutions through letters, sermons, in schools for children, in gymnasiums, in assemblies, wherever the opportunity presents itself, you consider these to be the most important parts of your office. The multitude has heard enough about those things which are called the rights of man; let it hear something about the rights of God. The time is opportune, or rather, it is indicated by the very studies of many, as we have said, and by this piety, specifically in the Redeemer, which is replete with so many meanings, which, if it pleases God, we intend to entrust to the coming century as a harbinger of a better age. However, since the matter at hand is one which we can hope for from no other source than divine grace, let us insist with common effort and with the highest prayers upon the Almighty God, that He may not allow to perish those whom He Himself has redeemed with His abundant blood: let Him look favorably upon this age, which has indeed committed many sins, but which has also lavished much in suffering for expiation; and let Him remember all the nations and the races of men, embracing them with kindness, and let Him remember His own words: "And I, if I be lifted up from the earth, will draw all things to myself." (1) We impart to you, venerable Brothers, and to your clergy and people, our paternal blessing, as a pledge of divine graces and of Our benevolence. Given at Rome, at St. Peter's, on this 1st day of November, in the twenty-third year of Our Pontificate. LEO XIII. (1) John 12:32.

[*Latin ed. p. 286*]

286 APOSTOLIC LETTERS. Apostolic Letters from Our Most Holy Lord Pope Leo XIII concerning the founding of the College of Portuguese Clergy in the City. LEO P. P. XIII. FOR PERPETUAL REMEMBRANCE. We are moved by a desire to promote the Catholic cause among the Portuguese, a

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desire that is neither unusual for Us, nor unworthy of that most esteemed nation, whose praises We have had occasion to mention on more than one occasion. For it is well known that this people has been united with the Apostolic See on many occasions, and that the victorious symbols of its kings have been associated with the Cross, spreading the blessings of their empire far and wide. This very excellent virtue and constancy of faith have long earned the favor of the Roman Pontiffs, and have brought great benefits to the Portuguese nation. This is evidenced by the honors bestowed upon them by the kings, and by the extensive patronage granted to the churches in the East, as well as by other privileges and numerous adornments. Nor have the signs of Our paternal charity been wanting, whether when We devoted Ourselves to the affairs of Goa, or when We suitably considered the various needs of the Portuguese Church. And for the same reason, We have given two encyclical letters to Our Venerable Brothers, the bishops, one on September 14, 1886, and the other on June 25, 1891, in which We deemed it necessary to offer many salutary admonitions and precepts. These seeds sown have not fallen on barren ground. Through the prudence and vigilance of the bishops, the piety of the clergy and the people, and the obedience of all to the Apostolic See, certain things have been considered and proposed, which would contribute to repairing the damages to religion and promoting its benefits. But of all the plans, the first, according to Our wishes, has been realized, namely, the formation of young men for the priestly office through a more refined education: for almost all the safeguards of the Church are contained in this one benefit. We speak, of course, of the opening of a College for Portuguese clergy in Rome. Indeed, if We have undertaken such endeavors for other nations, with the aim of multiplying the homes of those devoted to the sacred ministry, and that these homes may flourish with the virtues of doctrine, We certainly ought to receive with great eagerness the proposal made for the particular benefit of the Portuguese clergy, whose best interests are promoted by nothing so much as public affairs.

[*Latin ed. p. 287*]

APOSTOLIC LETTERS 287 have delayed the matter. — Indeed, much effort and labor have been devoted by the bishops of this age to restoring the number of the clergy and to ensuring that legitimate discipline prevails among the young, whether through established institutions or newly founded ones. Nevertheless, these same individuals have declared that much still remains to be done, and they do not believe that their churches will truly prosper unless a college is established in the city, from which young men are selected from all of Lusitania. For in this place, near the venerable tombs of the Principal Apostles and the august Basilica of Saint Peter, it is possible to draw much more fully from the wholesome doctrine that is fitting for God's ministers; here, they can be more readily

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led to the practice of the most excellent discipline and solid piety; here, they can be more quickly equipped with the means necessary to serve, so that, armed with these, the good soldiers of Christ may provide service to religion and to the state. The matter is of such importance that it is certainly known to all how much has been and will be accomplished, not only by the students of other external colleges and sodalities, but even by one or two of those from Lusitania itself, who have had Rome as their home and teacher in their youth. For these reasons, when the solemnities for the discovery of India were celebrated in Rome, and this matter was brought before Us, We did not hesitate to approve and commend this excellent undertaking, and We prayed to God for its success. Furthermore, a general and unanimous agreement, not only of sacred prelates, but also of the most distinguished members of all orders of citizens, prompted this action; among these, Aloysius Souza Rabello Vahia, the vice-count of São João de Pesqueira, and his noble wife, are particularly worthy of mention, who have diligently fulfilled every duty to ensure that the matter proceeds well and successfully, and who have also generously contributed funds for the support of the college. Therefore, in the preceding year, certain initial steps were taken for the establishment of the college, and a temporary location was secured for it. And since things proceeded quite favorably, and with more hopeful prospects for the future, We did not consider it right to delay any longer what was desired, namely, to grant to this institution the rights of a legitimate college by Our authority. Therefore, for the greater glory of God, for the growth of the Catholic religion, and for the honor, benefit, and prosperity of the illustrious Kingdom of Lusitania, by these letters, We found and establish a college for Lusitanian clerics, under Our authority and under the protection of Our successors, in the city, and We wish it to have the same rights as the pontifical colleges for clerics in the city. And so, to Our people in L-

[*Latin ed. p. 288*]

288 That the benevolence of the Apostolic See may be more clearly demonstrated, and that the affairs of the College may prosper more abundantly from its very beginning, We have decided to provide funds from Our own resources for the acquisition of suitable buildings for it. Furthermore, We decree that the administration of the College's affairs shall be entrusted to the Rector of the College, who shall be chosen by the Most Holy Pontiff, in association with the care of two men from the clergy, whom the Pontiff Himself shall likewise appoint to this office. The bishops will communicate with the Rector regarding the admission of their students to the College; and they shall present those who are most distinguished for their talents and character, so that they may, in due time, offer a good hope of being worthy to undertake the sacred duties. Students shall be sent from all the dioceses of Lusitania, both those on the

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continent and those overseas: at least two shall be sent from each diocese on the continent. We are confident that this number will be sufficient to meet the present needs. And looking forward to a more abundant life for the College, We decree that four Lusitanian students, for whom there is a place in Our Roman Seminary, as well as one for whom there is a place in the esteemed College of Capranica, shall move to this new home destined for the clergy of their nation, with an endowment transferred to it. — Since it has been customary for a Cardinal to be from the sacred order who bears the patronage of the Kingdom of Lusitania, therefore, for the sake of his benevolence and grace, and likewise of the Most Faithful King's legate with Us, We wish to commend the College itself. These things We have decided for the present: later We shall take care of other matters concerning the growth of the College. — As for the financial support that will provide sustenance and care for the students in perpetuity, We promise that excellent means will be explored daily, through the generous will and pious liberality of both the sacred prelates and the best citizens, for whom the primary recommendation is the study of the ancestral religion, joined with love of country: for it is indeed a great merit to contribute to the upbringing of the young clergy, and it is supremely meritorious for the country itself. It remains only to say that those who are admitted to the urban College of Lusitanian clerics should strive to appreciate the vastness of the benefits bestowed upon them by God: therefore, let them strive with eagerness to fulfill the just expectations of their bishops and citizens, and Our own, through a contest of all virtues, as if by an institute. May the Lusitanian Church, of which many are numbered among its ranks, rejoice in them, both for their sanctity of life, their adornment of doctrine, and their active charity, which are worthy of imitation. Finally, We wish that these Our letters be firm and valid.

[*Latin ed. p. 289*]

APOSTOLIC LETTERS, so that they may remain valid in the future, declaring that any attempt to alter them will be deemed null and void, notwithstanding any contrary circumstances. Given in Rome, near Saint Peter's, under the Fisherman's Ring, on the 20th of October, in the twenty-third year of Our Pontificate. A. CARD. MACCHI. FROM THE HOLY CONGREGATION OF THE COUNCIL OF PARIS. INCIDENTARY SENTENCES HAVING DEFINITIVE FORCE. On May 19, 1900. Session 24, section 20. Concerning the case of Peter, a Baron, thirty years of age, who celebrated a legitimate marriage in Paris, in the parish church of Saint Honorat d'Eylau, on May 25, 1887, with Amelia, who was seventeen years of age. The marital life was not without contention and serious discord, until the year 1896, in which year, in the month of July, the spouses obtained a civil divorce, as it is called. - Peter had instituted a lawsuit against Amelia before the secular judges, alleging that his wife had long

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been involved in adulterous affairs; and he appeared to have sufficiently proven his claim, although he himself subsequently suffered a judgment of divorce that was not exclusively in his favor. To obtain a judgment declaring the marriage null, Peter, it is said, brought the case before the ecclesiastical court, motivated by the fear of the first chapter. It is reported that Amelia's mother, who today confesses in the ecclesiastical court of the City of Versailles, acted to initiate such a proceeding, but the court of Versailles was duly questioned to report on the status of the case in the court records. SUMMARY OF THE AGREEMENT. Records. Volume XXXIII. Page CCCLXXXIX. 19.

[*Latin ed. p. 290*]

290. Ex decreto Concilii Generalis, haec res repressa est, et nullum vestigium huius actionis in acta eiusdem Concilii invenitur. – An filia, Amelia, intentionis matris conscius esset, vel saltem an eidem faveret, ex actis certo assereri non potest. Querelam vero nullitatis deinde enixius apud curiam Parisien, aggressus est Petrus, allegans impedimentum metus ex parte suae uxoris. Verum quia Amelia perfracte negavit se metum passam fuisse, quin imo affirmat se ultro nuptiis praebuisse consensum, et alia praebuit argumenta, haec aliaque monumenta adeo visa sunt gravia et perspecta Curiae ut haec edixit die 26 Iulii 1899, intentionem Petri actoris videri omni fundamento destitutam, proindeque locum non esse prosecutioni actionis quippe frivolae et frustratoriae. Sententia est sequentis tenoris: « Considerando que, ut sit contrectatio, necesse est esse subiectum quod eam patiatur, et causam quae eam producat; « Considerando quod, a parte subiecti, contrectatio invocata formaliter et sollemniter ab Amelie est negata; « Quod illa contrarium affirmavit se libere, post deliberationem, et de bono animo nupsisse; « Quod illa verba sua probavit litteris numerosis et affectuosis quas ad sponsum suum scribebat ante matrimonium, quod, secundum pretensionem, non amabat et non volebat nupsisse; « Quod illa etiam hodie iurat, longe ab eo ut coacta esset, et parata est iterum marito suo, si is dispositus fuerit ad officia sua erga illam adimplenda; « Considerando a parte causae quae contrectationem produxisse dicuntur; « Quod mater reae, in fundo, pretensionem negat, cum in unica littera quae scripsit, simpliciter dicat: «... est verum quod... erga filiam suam (Ameliam) influentiam matrinam adhibuit, ut eam ad accipiendum pro marito Dominum Petrum incitet; « Quod illa statim addit: « In qua mensura haec sollicitudo matrina libera arbitrio eius obstitit? »

[*Latin ed. p. 291*]

PARISIAN. 291 And concerning the independence of my daughter's resolution, it is beyond my knowledge to define it; "that she has received four urgent summonses, two of which were peremptory, to appear before us to

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be questioned, but that she maintains, despite our threats of ecclesiastical penalties, her firm will not to appear before the Tribunal." "Considering that, concerning the principal witness invoked by the plaintiff himself, it seems proven that Amélie did indeed consent to the marriage, since at the moment of her departure on the evening of her wedding, she said to the witness, while making certain preparations, that she intended to consummate her marriage "even before arriving at the end of her journey." "After weighing all matters carefully and deliberately, and invoking the Holy Name of God, and after taking the opinion of our assessors, "without wishing to definitively prejudge the matter, we say and pronounce that, in such a state of the beginning of the evidence, the cause invoked lacks foundation, and that there is no reason to continue the proceedings that have been initiated." *Disceptatio Synoptica* As it is clear, this sentence is not definitive in terms of the merits of the case; it is incidental, yet it has the force of a definitive judgment, because it precludes further prosecution of the case. Concerning these sentences, the Council of Trent, in Session 24, Chapter 20, *De ref.*, warns against appealing from sentences that are merely incidental, but it allows an appeal from incidental sentences that have the force of a definitive judgment. Relying on this law, Peter today, before the Sacred Congregation, urges that the judgment of Parisien be appealed, requesting that the sentence of Parisien not be ratified, but that he may proceed further in the action he has undertaken. He presents the foundation for his intention primarily from the very nature of the facts. For he states that Amélie had already been inclined to love, with all her senses, the man to whom she was betrothed, namely, at the age of 17. Having been orphaned of her father in 1886, three or four months before the wedding, she had before her the not commendable example of her mother, who...

[*Latin ed. p. 293*]

PARISIAN. 295 She claims to recall having risen from the table and retired to her chamber, from which her fiancé implores her to descend, and she cannot explain the reasons! ! ! " 4. She wishes to portray her fiancé as being too bold and enterprising, while her upbringing, character, and even the letters produced from him, attest to his propriety and dignity. " 5. Lady Amelia deceived the Tribunal when speaking of the causes of her divorce. "And in order to clearly demonstrate that I disdained the matter of money," she says, "I threw into the fire the handful of banknotes that I held in my hand." This was the most serious accusation made against me. "It was on this basis that the divorce was pronounced against me!" " 6. Now, this is nothing but a blatant lie invented by Lady Amelia to conceal from the Tribunal the true cause. The fact is that, knowing that his wife was deceiving him, without having material proof, Baron Pietro had threatened a petition for separation; that in an interview with Madame Coulombier, Amelia swore that she would never see Mr. Delamalle again;

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that two days later, Baron Pietro had the flagrant act of adultery (the affair continues) documented; that it was then that he initiated the divorce action; that in order to avoid scandal and out of compassion for the wife of Delamalle, Baron Pietro agreed that the judgment be obtained by mutual consent without discussion. "It was the conduct of Lady Amelia that led to the separation. "I have heard it said that within three months, Lady Amelia was already having relations with her coachman! ! ! " "There is not a single line in the testimony of Lady Amelia that is not hypocritical, malicious, exaggerated, or false. She remains silent concerning the reasons for which she was placed with the Dominicans of Neuilly, and she exaggerates the duration of her stay in that religious house; she attributes to Baron Pietro sentiments that were never hers; she speaks of her husband's fortune in the most misleading terms in order to make it appear that he,..."

[*Latin ed. p. 294*]

294 FROM THE HOLY GENERAL COUNCIL: Regarding the matter of money, she aimed at nothing other than to arrange a marriage of convenience; she fabricates very significant scenes, which bear witness to the mother's violence; she wants to convey the impression that she has a weak constitution, whereas this is contrary to her habits of sport and misconduct; she gives false reasons for the discussions between her husband and the dowager Baroness of B., alleging trivial matters that were never the true cause; she invokes the absences of her husband, which were not at all frequent, and she does not speak of her own scandalous public conduct; she conceals the true cause of her anger on the day she threw the bank notes into the fire, when such a cause is established by one of her own letters; she pretends to be a religious woman, when her immoralities are known throughout Paris; she wants us to believe that she knew nothing of the actions taken by her mother to initiate proceedings for the annulment of the marriage, and that she even forbade her mother from speaking to her about it, whereas it is more than certain that mother and daughter acted in concert. "The letter in which Madame Coulombier thanks Luisa Collet for being ready to testify, adding that this news will make Lily happy, is too eloquent, and if Lily then throws herself into the arms [of someone], it is due to hatred towards her husband, and perhaps to a desire to please the lover who does not wish to see her free! In short, there is no point on which this woman does not seriously distort the truth. What force, therefore, can the denial of this woman have, when even the most superficial analysis of a few of her actions would demonstrate her to be a liar, and a cursory investigation of her life would reveal her to be adulterous?" From several letters presented as evidence by Amelia, the prosecutor notes that several scruples may be raised which allow one to doubt their authenticity. Although the content of these letters does not greatly disturb the prosecutor, who observes that the letters, no less than the marriage proposal, are to be

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attributed to the mother's will, not to the daughter's. The judge of Paris has done much to fulfill Amelia's will, beyond what was presented, to restore conjugal life; but the lawyer replies that the woman, who makes such extensive use of her body, is...

[*Latin ed. p. 295*]

PARIS. 295. He presented more evidence, but it was not sufficient to prove his intention to be in accordance with law and truth. Finally, in these words, quoted four times but still stubbornly rejected, which were sent by the mother, cited previously, in a letter addressed to the judge of Paris: "It is true that, with a sincere desire to ensure her happiness, I used my maternal influence to encourage her to accept Monsignor Peter as her husband. To what extent this natural concern has distorted the free will and independent judgment of my daughter, I am unable to determine, and the Tribunal must be better informed on this matter than I am." The defender then argued that these words were so ambiguous and equivocal that they warranted the judge's scrutiny, which should be preceded by a very diligent and thorough investigation of the facts. All of this, the advocate believes, clearly demonstrates that Peter's intention was not without foundation, and that he has the right to legally inquire whether the marriage bond was valid and firm.

OBSERVATIONS OF THE DEFENDER. REGARDING THE MARRIAGE BOND.

On the contrary, the advocate for the validity of the marriage bond first recalls the impediment of fear, which applies to those in whom an action against the marriage is not open to everyone, but only to the spouse who is alleged to have suffered the fear. He recalls what is stated in the Instruction from the Holy Congregation for the Holy Roman Church, Inquiries, issued on June 20, 1883, article 3, on impediments of force and fear: "(Therein) Regarding the impediment of force and fear, it must first be noted that no one is admitted by law to challenge a marriage on this ground, unless it is alleged that he has suffered violence and coercion." He also recalls the same thing stated in the Instruction from the Holy Congregation for the Propagation of the Faith, article 3, on impediments of force and fear, promulgated in the same year, 1883. Indeed, in order not to provide an easy opportunity for frivolous citizens to be harassed by reckless lawsuits, it is stipulated that the judge, neither in marriage cases, nor in other cases, even minor ones, should initiate a judicial investigation unless there is a reasonable basis for the claim.

[*Latin ed. p. 296*]

296 FROM THE DOCUMENTS OF THE GENERAL COUNCIL: Nothing is more insisted upon in legal proceedings than that the accuser must,

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above all, demonstrate the foundation of his accusation or intention: "He, however," as St. Hot. declares in decision 472, number 1, page 3 of the recent edition, "is considered to have a well-founded intention, who is in such a state that, if nothing is proven to the contrary, he can obtain a favorable judgment." At the end of the chapter concerning legal disputes, it is noted, through the gloss of Innocent and others, regarding deceit and prevarication. However, the advocate insists, that Baron Peter bases his accusation on a letter from Madame Coulombier, mother of Amelie, to Ludovica Collet, dated January 8, 1897. Reciting the letter, he observes that it was written at a moment in time when "Madame Coulombier, overcome with the most acute pain, cried out: 'It is too much in a single year! And I am not recovering from so many trials and tribulations'; at a moment when the solution of the marriage appeared to her as a plank of salvation from shipwreck. Madame Coulombier, according to the testimony of Baron Peter, is not one who would easily be deterred by religious considerations from saying what she believes will benefit her. Although it is asserted that the bond of tutelage, not demonstrated by the Baron, is not the foundation of the accusation: rather, it appears to be the opposite, and is proven. Indeed, Ludovica Collet, "who was almost the only person who saw things closely," besides calling Amelie: "very brazen, very bold: She had a real boyish audacity," clearly states that Amelie did not marry Peter unwillingly, but rather, as a deer rushes to the waters, she hastened to the marriage. She says: "I cannot say that Mademoiselle Amelie always resisted. In the end, she resigned. I must say, she was a wicked person, who needed a relationship, and that, having been separated from Monsieur Leroy-Dupré for some time, she would have given herself to anyone. I even remember that on the evening of the wedding, as she was leaving for Arcachon with her husband, she asked me for her dressing gown so that she could undress on the train, because she hoped that upon arriving in Bor-

[*Latin ed. p. 297*]

PARIS. On the 297th day, the marriage would be consummated, and, as if astonished, I asked her: "But will you not be ashamed? On the railway?"... "Oh!" she said to me, "Pierre will hire a coupé, will give the fare to the employee, and we will be left in peace." Agnes, the Baroness's sister, wrote to the President of the Paris Tribunal on February 25, 1900: "Being in Paris at the time of her union with Miss Amélie, I observed how much the betrothed were in love with each other. Some years after her marriage, my brother, rendered very unhappy by his wife, had to separate from her, to divorce! It was then that Miss Reinchemberg, playing the role of comforter, exerted a great influence over him. "It seems impossible to me that this request for the annulment of the marriage will be taken seriously, either by the Archbishop or by the Roman Court, and I hope that my brother, whom we love so dearly, will finally escape the intrigue, the harmful influence

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that seeks to separate him from all his loved ones, and to lull within him all feelings of family and dignity." Furthermore, the Baroness's mother, as the orator reports, stated in Uteris on February 14th of the aforementioned year: "I have learned with astonishment and profound sorrow that my son is requesting in Rome the annulment of his marriage. On what can he base this claim? The union was freely consented to by both parties. I suspect, alas! to what suggestion my son is obeying at this moment... It is under the influence of a woman, intelligent and fatal, consumed by ambition, Miss Reichemberg, the former actress, that he is making these moves. "Although older than my son, she claims to want to marry him, and my unfortunate son obeys her, without concern for the shame he would thus bring upon our name, nor for the despair in which he would plunge me. "If it is within your power, reveal the truth, Monsieur the Abbot. I trust that a time will come when my son, disillusioned and enlightened, will be grateful to you for having defended him against himself."

[*Latin ed. p. 298*]

298 From the Council of Trent: A priest from Gibergues, who was a confidant of the Archbishop Richard, writes: "You ask me for my opinion regarding the matter of Amélie. "I can only transmit to you the letter that her mother addressed to me, which is the very expression of the truth. "According to me, Mr. Peter is being driven to this request by a scheming woman who charms him, despite himself... and, in the depths of his heart, he has remorse and regret for what he is doing. "If he were ever to succeed, which I believe is impossible, because there is no reason for nullity, it would be a true scandal in Parisian society. People would not fail to say that in Rome, everything can be obtained for money! "Please, use all your influence to stop this deplorable affair, which can only do harm to the religion, and which, I repeat, cannot succeed, and therefore, what is the point of undertaking it?"

However, in the present case, the defender of the marriage argues, in addition to the fact that the action does not belong to Baron Peter, according to what was stated above; even if the action were his, he would not be heard, because he is not in a situation such that, if nothing is proven to the contrary, he can obtain a favorable judgment. Indeed, the advocate does not at all believe that the letter of Amélie's mother constitutes a solid foundation for the action or intention of Baron Peter, therefore the judge declares the marriage brought into controversy to be vitiated by nullity, even if nothing is proven to the contrary; indeed, even if a thousand witnesses confirm the sentiments expressed by Madame Coulombier in the aforementioned letters, completely and utterly doubting [the marriage]. For Madame Coulombier, in the aforementioned letters, does not clearly or certainly affirm the fear, which she claims to have instilled in her daughter in general terms, for she says: "I, in a way, surprised my daughter in order

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to lead her to consent to this marriage... I can say that I married her against her will." Therefore, the defender of the marriage concludes, that from what has been presented so far, there is no smoke of truth or of good law, which is absolutely necessary for a judicial investigation to be instituted.

[*Latin ed. p. 299*]

PARISIAN. Having noted these things, the purpose was to resolve the doubt. Whether the judgment of the Archdiocesan Court of Paris is to be confirmed or rejected in this case. RESOLUTION. The Holy Congregation, after deliberation on May 19, 1900, decided to respond: the judgment is to be confirmed. *FROM THE DECREE OF THE HOLY CONGREGATION FOR INDULGENCES, by which a plenary indulgence is granted to each and every faithful person who, after having confessed and received Holy Communion, adores the Most Holy Sacrament publicly exposed from midnight on December 31, 1900, to noon on January 1, 1901. To the King of the Ages, Christ Jesus, who is already nearing the end of this waning age, and whose new beginnings are rapidly approaching, it is most fitting that all who are everywhere on earth be solemnly dedicated; both so that, for the gifts received from Him, especially in the past century, works of grace may be accomplished, and so that, in such adverse vicissitudes of things, He, the merciful and clement One, may grant more powerful aids for a happy beginning of the new era. Foreseeing these things, the Most Blessed Father and Lord, Leo XIII, by a Decree of the Holy Roman Church dated November 13, granted that the most august Sacrament of the Eucharist might also be exposed for adoration at midnight on the beginning of January of the year 1901, in churches and chapels, with the power to read or sing before Him during that hour a single Mass from the feast of the Circumcision of the Lord and the Octave of the Nativity; and that the faithful, whether within or outside the Sacrifice, may receive a special grace from the Holy Synaxis. Now, considering how to add a new stimulus to the piety of the faithful, it became clear to the Most Blessed Father that many Holy Priests and pious Societies desired that the faithful, enriched with the spiritual treasures of indulgences, be encouraged in every way to adore the Most Holy Eucharist.

[*Latin ed. p. 300*]

300. Those who would avoid the penalties of censure should strive to repair the injuries done to the Divine Majesty, and to draw themselves more closely to the most sweet Heart of the same. Since this corresponds most perfectly to His will, the Most Blessed Father has graciously granted that all the faithful who, having been duly absolved through sacramental Confession and strengthened by Holy Communion, in churches and chapels where the Most Holy Eucharist is reserved, before the Most August Sacrament, publicly exposed for adoration from midnight of December 31st

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until noon of January 1st, dedicating a whole hour as they please to prayer, may also, according to the mind of His Holiness, offer devout prayers to God, and may obtain and enjoy a Plenary Indulgence. As for how long the adored Eucharist must remain exposed, provided that it is within the aforementioned twelve hours, His Holiness has left it to the prudence of the Ordinaries. Contrary decrees notwithstanding. November 16, 1900. S. CARD. CRETONI, Prefect of the Sacred Congregation for Indulgences and Sacred Relics. L. © S. FRANCISCUS SOGARO, Archbishop of Amiden, Secretary.

[*Latin ed. p. 301*]

To Joseph Pennacchi, Additions to the Commentary on the Constitution on Offices. Observations concerning the new Index of Prohibited Books, published by order and authority of His Holiness Pope Leo XIII. On the occasion of the publication of this new Index, we have undertaken two tasks: firstly, to propose certain observations and questions within the Index itself; and secondly, to confirm or amend certain points which we wrote in our brief Commentary on the Constitution on Offices and Duties. We shall endeavor to accomplish both briefly. Thus, the new Index is composed of three parts, as it were. 1. The Apostolic Letters issued by the Roman Pontiffs on September 17, 1900, which confer upon it an apostolic character and authority; the Constitution on Offices and Duties, which deals with the censure and prohibition of books; and the Constitution *Sollicita ac provida* promulgated by Pope Benedict XIV on July 9, 1753, in which rules and criteria are given to the censors of books, by which they ought to judge books. 2. A most serious and accurate Preface by the most excellent and learned Father Thomas Esser, Secretary of the Index Congregation, which informs the reader as to how the new Index was compiled and how it should be used. 3. Finally, the review of the books themselves, arranged alphabetically and in a clearer method, so that all may know which books have been retained and which have been proscribed. The Constitution of Leo XIII reads as follows: LEO PAPA XIII, FOR PERPETUAL REMEMBRANCE. The Roman Pontiffs, to whom that great office was entrusted by the Blessed Peter, the Prince of the Apostles, of feeding the entire flock (I).

(I) As to this Constitution and the Commentary, see Vol. XXX, page 33.

[*Latin ed. p. 302*]

302 JOSEPH PENNACCHI, having always remained steadfast within the flock of Christ, diligently strove to preserve the most precious deposit of faith, intact and inviolate, and to nourish the people of Christ throughout the world with the nourishing doctrine of salvation. Therefore, they employed a vigorous and prudent care, constantly striving to distinguish sound and wholesome books from those that are adulterated, apocryphal, and pernicious; lest Christians, through the careless or reckless use of these

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latter, suffer detriment to the integrity of their faith and morals. In this regard, various remedies suitable to the circumstances were never neglected by the Popes themselves, nor by the Councils. When, however, in the fifteenth century, a new art of printing increased the abundance of books, and furthermore, the pestilence of wicked heresies spread widely, it was deemed absolutely necessary, in order to avert these dangers and to repair the damage already done, to more carefully scrutinize written works. Therefore, the Fathers of the Council of Trent, to whom our predecessor, Pius IV, entrusted this matter, considered it necessary to address the immense proliferation of books, whether heretical, or suspected of heretical tendencies, or harmful to piety and morals, in two ways. First, with the authority of the same Synody, certain bishops and theologians established certain rules, so that it might be more easily determined from which categories of books the faithful ought to abstain. Secondly, they prepared a careful and complete list, or index, of books unsuitable for reading. This index, together with the aforementioned rules, was, after the conclusion of the Synody, presented to our predecessor, Pius IV, as decreed by the Synody itself, so that it might not be published before receiving the strength of papal authority. With great diligence, this Pontiff then approved the same index and ordered that it be observed by all. However, the very nature of the matter suggested that the same index, with the passage of time and the publication of new books, would require additions; and it is certainly no secret that this has been repeatedly and diligently accomplished by the Apostolic See. Thus, Clement VIII, and subsequently Alexander VII and Benedict XIV, our predecessors, revised the index itself, adding those books which had subsequently been condemned by the Supreme Pontiffs, either through apostolic letters, or through the Roman Congregations, especially the Congregations of the Inquisition and the Index, bringing it into a better and more suitable form, as if renewing it. When, however, from the time of Benedict XIV...

[*Latin ed. p. 303*]

TO THE COMMENTARY, ADDITIONS. Our predecessor, having reached a very long age during his pontificate, nearly one hundred and forty years, it seemed that something greater and more efficacious was required. For not only had many writings been condemned during this time, but also not a few errors and inaccuracies had crept into the Index itself. Therefore, as it had also been foreseen by many Fathers of the Vatican Council, we deemed it necessary to apply our hand to the work of amending and perfecting this Index. And first of all, we decided to make the rules, which our predecessor Pope Pius IV had established according to the mind of the Council of Trent, somewhat more lenient, and to adapt them to the times; and we indeed accomplished this through the Apostolic Constitution *Officiorum ac munerum*, published on the

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twenty-sixth day of January in the year 1897. As for the Index itself, we ordered that it be most carefully examined, purged of errors, and arranged and ordered in such a way that its entire structure would be perfectly in accordance with the general rules or decrees. This undertaking, of course, is a laborious one, and we entrusted it to our Venerable Brothers, the Cardinals of the Holy Roman Church, who preside over the Congregation for the Index of Prohibited Books, and who, with the assistance of several learned men, carried out the entire work with eager and diligent study, so that the new Index, compared to those that preceded it, not only appears much improved, but also is of more convenient use, with the omission of a number of books whose suppression, once necessary or opportune, is now scarcely useful. Therefore, this general Index of prohibited books, having been revised and amended at our command, and printed by the Vatican printers, which we wish to be included in these very documents, we approve and confirm with apostolic authority, by these presents, and we command that it be observed integrally and inviolably by all everywhere, under the penalties established in our Constitution *Officiorum ac munerum*. We command all local Ordinaries, as well as the Superiors of all religious orders, and all others to whom it pertains, or in the future will pertain, to take care to disseminate and observe this same Index to the best of their ability. Notwithstanding anything to the contrary. Given at Rome, at St. Peter's, under the Fisherman's ring, on the seventeenth day of September, in the twenty-third year of our pontificate. ALOYSIUS. Cardinal MACCHI.

[*Latin ed. p. 304*]

304. JOSEPH PENNACCHI. Therefore, as is evident, in this constitution, Leo XIII diligently insists upon those matters which he had previously addressed in the Constitution *Officiorum ac munerum*; namely, that the Roman Pontiffs have always diligently taken care to warn the faithful about which books contained pernicious and harmful doctrines, and therefore to remove them from their hands (1); that many have compiled lists of prohibited books, and have established appropriate rules by which, even taking into account the passage of time and additions, they might be identified (2); however, that in those lists, with the passage of time, certain corrections and errors had arisen; and that all of these matters, having been considered by many Fathers at the most recent Vatican Council, it was deemed necessary to correct and renew the list of prohibited books (3). Therefore, the Pontiff, having approved of all these proposals, entrusted the task of amending these lists to the Cardinals of the Holy Roman Church, who are in charge of the Congregation of the Index, at the same time instructing them to ensure that the entire process was in complete conformity with the rules and decrees laid down in the aforementioned Constitution *Officiorum ac munerum*. These Cardinals, with the assistance of learned

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men, diligently and assiduously worked to produce a new Index, which the Pontiff strengthened with his authority, and ordered to be published for all to observe. "Therefore, we hereby approve and confirm this general Index of prohibited books, which has been revised and amended at our command, and printed in the Vatican, and which we wish to be included as if expressly inserted herein, with the authority of the Holy See, and we command that it be observed integrally and inviolably in all places, under the penalties established in our Constitution *Officiorum ac munerum*. We command all local Ordinaries, as well as all superiors of religious orders, and all others to whom it applies, to diligently ensure the dissemination and observance of this Index to the best of their ability." Therefore, the Roman Pontiff excludes no one from the observance of this decree among the faithful of Christ, and confirms in the present decree what he had prescribed in the aforementioned Constitution *Officiorum ac munerum* (4); so that no nation can claim that the law of prohibited books is not observed among them; indeed (1) Cf. Pennacchi: *In constitutione Officiorum ac munerum Brevis Commentatio*, Vol. XXX, pages 59 and following. (2) Ibid., pages 64 and following. (3) Ibid., pages 77 and following. (4) Cf. aforementioned commentary, Vol. XXX, pages 43 and following, and 83 and following.

[*Latin ed. p. 305*]

To the Commentary, Additions 505. The Roman Pontiff ought to be considered to have rebuked and condemned such disregard and abuse through such general decrees. It is not understood how such a privilege or custom can be urged, since noxious books are frequently, not only in matters divine and ecclesiastical, but by the very law of nature, prohibited (1), how, therefore, can an exception, custom, or privilege be alleged against the general law of nature? And it must be diligently noted that in such a case, no prescription or custom can be introduced which has the force of law, since we are dealing with a spiritual matter, namely, the danger to the soul that arises from the reading of noxious books; and, indeed, we are always and everywhere bound by divine and natural law to avoid such danger. It should not be understood that some, even without ecclesiastical permission, have sometimes been allowed to read noxious books, for we are here speaking of a privilege or custom, which some nations generally claim for themselves, namely, the right to read any books they please, while they say: among us, the obligation of observing the Index has never been in force; this is not the case with particular persons, who are sometimes dispensed from it for the common good, and for other reasons, in that particular case. And the example can be given of one who is compelled to immediately refute a most pernicious book, and who, because of the urgency of the time and the distance of the place, cannot obtain the necessary permissions (2); in this case, the

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law prevails, to which it is necessary to yield, and the obligation of not reading the pernicious book must give way. But when a custom of a nation or kingdom is introduced, then no one abstains from the reading of pernicious books, and everyone drinks in the poison; will all avoid the evil that will result from it? Let experience answer. II. The decrees of Leo XIII, in the form of letters, which follow in the new Index, contain observations and warnings from the most learned man of Rome, Father Esser, prepared for the Congregation of the Index, in which he explains how the new Index was compiled, and reveals the norms which were followed by those who compiled it. And first, he wisely observes that this Index has a connection with the general decrees contained in the Constitution *Officiorum ac munerum*; for both are documents pertaining to it (1). (1) Cf. Const. *Officiorum* § 21, and Commentary, cited, Vol. XXX, page 345. (2) Commentary, cited, Vol. XXX, page 345. Acts, Vol. XXXIII, page CCCLXXXIX. 20.

[*Latin ed. p. 306*]

506. IOSEPHUS PENNACCHI: In order to instruct, it must be determined from which books one should abstain, and which should be retained. However, the decrees and the Index serve different purposes. For the former scarcely prohibit all noxious and corrupt books, whose reading is, by the very nature of things, mostly forbidden; whereas the latter only lists a portion, and a small one at that, of books, and notes them. The decrees alone condemn certain types and classes of books, while the Index specifically proscribes individual books, by their title, and even by the author's name. Hence, there is a clear error in those who believe that the entire question of prohibited reading is defined solely by the Index, as if only those books are to be considered prohibited that are listed therein. Indeed, for a book to be considered licit for reading, two things must concur: that it not be found in the catalog, and that it not belong to any of those classes that are condemned by general decrees. Truly so; otherwise, the general decrees would be rendered almost useless, and the Index of prohibited books would have to grow to an enormous size, encompassing countless volumes. From this, it is clear that it is a misguided approach for those who, in order to ascertain whether they can read a particular book with a safe conscience, consult the Index of prohibited books, and abstain from reading it if it is found therein; otherwise, they read it. I say, these people are misled by a false criterion, because, although a book may not be listed in the Index, it may nevertheless fall under one of the classes condemned in the Constitution of the Holy Office, and its reading may therefore be prohibited. Therefore, those who are in doubt about the doctrine of a book that is not found in the Index, will do well to obtain information from someone who has read it.

The following question is also raised: whether those who read a book

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that is not listed in the Index, but which falls under one of the classes condemned by general decrees, incur the censures and penalties prescribed in the Constitution of the Holy Office. And, unless ignorance or some other grave cause excuses them, it is certain that they incur those penalties; for the words in the cited Constitution of the Holy Office are clear, especially in paragraph 49. Furthermore, the Secretary Rihus observes, in accordance with the meaning and intention of... (1) Cf. cited Commentary, Vol. XXX, pages 174 and following.

[*Latin ed. p. 307*]

ADDITIONS TO THE COMMENTARY:

307 The will of the Supreme Pontiff was to temper the severity of the ancient regulations and to make them milder, and to adapt the entire Index to the times; and this moderation was manifested in the fact that many works and many authors were removed from the new Index, the prohibition of which now seemed neither necessary nor useful. But this opportunity taken advantage of for the diminution of the ancient Index, brought forth certain questions which were entirely in need of clarification. And I. From the disposition of the Constitution *Officiorum*, by which Leo XIII prescribes: "All books which, before the year 1600, were condemned by the Supreme Pontiffs or by the ecumenical Councils, and which are not included in the new Index, are to be considered as condemned in the same way as they were formerly condemned, except those which are permitted by these general decrees" (1), the learned Father observes that the authors of the first class, whose entire works were prohibited, are now to be considered as permitted, those works, that is, which either do not treat of religion explicitly, or, if they do treat of it, contain nothing contrary to the faith, according to § 4 of the same title 1. And this mitigation is to be extended to all non-Catholic writers, whose entire works were expressly listed in the Index. Indeed, if any work of these writers does not treat of faith at all, or does not treat of it explicitly, but only touches upon the truths of the faith incidentally, it is to be considered permitted, unless it is specifically prohibited by some decree (2). For this reason, that distinction between works which are simply prohibited and works which treat of religion, which existed after the Constitution *Officiorum*, no longer holds, since whenever the entire works of an author are prohibited, it is understood that only those works are prohibited which either treat of religion, or which, although they do not treat of religion, are found to be proscribed by some general or special decree. Hence, it is not without reason that one might infer that the works of those authors whose entire works are still prohibited in the New Index, for example, Vincent of Gioberti, are now to be considered prohibited only to the extent that they were previously prohibited by a special decree, and not to the extent that they treated of religion either explicitly or implicitly,

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or to the extent that they had been forbidden by any special decree.

(1) Title I, i 1, Commentary, Vol. XXX, page 43.

(2) Commentary, cited, Vol. XXX, pages 171 and 176.

[*Latin ed. p. 308*]

308. JOSEPH PENNACCHI, in his second lecture, notes that not a few books, although purged from the Index, are nevertheless considered useful by anyone, despite some defect; and this has been done so that the new Index may correspond to the moderation urged by the Roman Pontiff, especially in § 10, Chapter I, V. 3. Using this moderation, similar books and works have also been purged from the new Index, namely those that treated of the Immaculate Conception of the Virgin in a correct manner, but with excessive zeal; those that contained domestic disputes and controversies; those that had been prohibited because of the author's stubbornness, who did not wish to observe the silence prescribed in that matter; small books containing offices and litanies not approved by the Church; certain light and superstitious works boasting of false and apocryphal indulgences; other works, although full of poison, which have become so rare that they are scarcely found; then certain ascetic works; theses that were presented for debate in public academies; and furthermore, works that had been prohibited only by the edicts of the Sacred Palatine Apostolate in the 17th century; and also works about which the Sacred Congregation of the Index itself had decreed that they could be omitted in the forthcoming decree; and, in addition, collections of declarations, decisions, and interpretations of the Sacred Congregations that were not authentic, although such things are not useless to those who study ecclesiastical matters. I calculate that, according to the number of works and authors purged, approximately two thousand five hundred and eighty-three (2583) works are found in the new Index. After these things, the most diligent Father indicates the method used by the compilers in preparing the Index and describing the books, so that it might be more convenient to use; and indeed, all of these things are worthy of praise; however, the readers may read these things in the preface cited above, since we wish to raise a certain question. From what has been said, everyone understands which books and authors have been purged from the new Index, and for what reasons they have been purged. However, a certain difficulty arises when one considers that even books have been purged that do not seem to have been concluded under reasons alleged either by the Roman Pontiff or by the Roman Secretary; and we offer an example. Leo XIII, in the cited Constitution *Romani Pontifices*, affirms that not a few books have been omitted in the new Index, whose...

[*Latin ed. p. 309*]

ADDITIONAL NOTES TO THE COMMENTARY:

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What was once deemed necessary, or at least opportune, is now scarcely useful, and the Pope's intention appears highly commendable. However, critics will observe that the learned men who undertook the task of revising the Index did not faithfully execute the Pope's will, since they removed authors who should not have been removed, and, conversely, retained those who could have been omitted. And regarding the aforementioned work, they may perhaps seek it out from the revised book, the title and condemnation of which in the old Index are found on page 32: "Bibliothèque Janséniste, ou catalogue alphabétique des livres Jansénistes, quesnellisfces, bajanistes, ou suspects de ces erreurs. Decret. 20 Sept. 1749...." This catalog, however, was compiled by the venerable Father Dominic of Koln, S.J., and in it he listed all the authors who seemed to him to be infected with Jansenist errors; among these were men distinguished by piety, learning, and dignity, such as, to mention a few, Cardinal Noris, and John Lawrence Dominic Berti of the Order of St. Augustine. This Catalog was, moreover, placed on the Index for the first time according to the Brussels edition of 1744, and subsequently, wherever and in whatever language it was printed or was to be printed, as containing many things that were false, rash, injurious to Catholic schools and writers, even those of ecclesiastical dignity, and contrary to the decrees of the Apostolic See (1). It is truly grave that, finally, in the year 1749, the words of the decree were suppressed, and that this "Bibliothèque" does not seem to belong either to those works whose suppression was once deemed necessary or opportune, but now appears almost useless, or to those classes of books which the Reverend Secretary of the Index admits to being expunged. Nevertheless, we say that it was well done by the Most Reverend Fathers and other learned men who participated in the reform of the Index, if they also removed this Jansenist "Bibliothèque," or catalog of those authors who seemed to be infected with the Jansenist heresy, from the new Index. Indeed, the principal defect of this catalog was that the author, using his own private judgment and authority, attributed Jansenist opinions to all the authors he cited, and drew certain of their sentiments to an inappropriate meaning. This did not concern false doctrine, and the dogmas of the Church (1).

(1) See Ap. Catalani De Secretario Indicis, page 08.

[*Latin ed. p. 310*]

Against the opinion of Joseph Pennacchi, whom the author follows, or which the Catholic schools and writers, even those of ecclesiastical standing, whom the author includes in his catalogue, held, it was asserted that they were infected with Jansenism, although they did not in fact follow that doctrine. Furthermore, certain opinions, contrary to reason, which they had expressed were attributed to them. Although, therefore, the author in this work has greatly erred in his method, and deservedly has been reprehended and condemned, it was not because of the heretical or erroneous

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doctrine which he diligently followed, but because he considered others to be infected with Jansenism, when they were not. Therefore, this catalogue in the book rather presents the appearance of defamation than of a work containing false doctrine, since Jansenius's tenets, and also Father De Colonia, and the Catholic schools and writers whom he attacks, were opposed to Jansenism. Let no one be disturbed by the fact that the book has been proscribed as containing, among other things, falsehoods, for everyone knows that such a designation or label is applied to propositions in general, and it is very difficult to determine to which specific propositions each label applies, although certainly some do apply to specific propositions. Since the author's purpose in creating this "Jansenistic Library" was to identify individuals and opinions infected with Jansenism, the relative falsity in such a matter consists in the Jansenistic tenets which those individuals professed; consequently, in the false accusation and supposition. However, the author should not be considered to have been motivated by a desire to harm, when he presented Catholic writers and schools as infected with Jansenism, but rather by good faith: for he certainly believed that certain opinions expressed by them seemed to him to be tainted with that pestilence. Indeed, there are well-known and long-standing questions which have caused disagreement even among Catholic theologians because of Jansenius's teachings; and this disagreement did not occur for the first time, nor will it be the last. For this reason, since this question does not directly relate to Catholic doctrine, since both sides followed and defended the Roman faith, it deserves to be considered among those domestic and private controversies, about which the Reverend Esser writes, which have been agitated among various individuals or groups with more intensity than is appropriate, to the detriment of charity, and scarcely to the benefit of truth.

[*Latin ed. p. 311*]

TO THE COMMENTARY, ADDITIONS 311: without any addition (1); and therefore, it is rightly deserved that this work has been removed from the new Index. From now on, no one will be ignorant of the defect of such a Jansenistic library; so that no wise and prudent man will give any credence to the distorted judgments of the author; nor will persons or schools implicated in the Jansenist error risk losing their reputation, because such a work has been removed from the new Index; for the judgment of the Holy Congregation of the Index remains intact, not that of Father De Colonia; and from this, it is clear and will always be clear, that the writers accused of Jansenism were Catholics, and in this matter, they will not gain any credibility. As for the book, and more truly, the pamphlet, which these critics would say should be removed from the new catalog, although it was not expunged, it is: "II velo rimosso da sulle tristi avventure del Rmo P. Giovanni da Capistrano ex Generale di tutto l'Ordine dei Minori." Decree, June 23, 1836. This pamphlet was written by a religious man in order to

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remove the accusations against him, which he had incurred because of the improper investigation of the virtues and works of the miraculous [events] that were said to have occurred in a certain religious house in Monticastrilli, in Umbria, which, during the pontificate of Leo XII, and at the beginning of the pontificate of Gregory XVI, had gained a great reputation for sanctity. The critics will observe that this book is of little importance, very rarely printed, does not touch upon the truths of the faith, but refers to a fact, about which many people often laugh, and only somewhat touches upon the methods of the Supreme Inquisition, so that it would have been more appropriate to despise it than to condemn it. But although these things may be true, it must be noted that such a pamphlet inflicts a not insignificant wound upon the authority and methods of the Supreme Inquisition; and since the author is a religious man, of impeccable reputation, of excellent doctrine, and of the highest authority in his Order, who considered himself the judge in his own case, readers could rightly judge that the Censors appointed to expurgate the Index had rightly questioned the Reverend John of Capistrano about the Supreme Inquisition if this pamphlet had been expunged from the Index. The new Index gives: page XIV.

[*Latin ed. p. 312*]

512. The writings of Joseph Paccini are still alive, and within the Order of the Seraphim, his memory endures, so that the examination of his works could not be conducted without just and thorough judgment. We have been content to present only these examples. Although readers may present others, by comparing the old and the new Index, they will discover the true and sincere opinion of the Roman Pontiff, who affirmed that many works, which were once deemed necessary or opportune to be proscribed, have now become almost useless. And may God be thanked for this. However, it is to be hoped that neither the Supreme Sacred Congregation, nor the Holy Office, will waste time in judging minor works, or those which do not in any way touch upon the faith; for if these are silenced by reasons that are not in accordance with the Constitutions, as they ought to be now and henceforth, such writings will be given oblivion more readily through tolerance than through condemnation. The declarations which were issued by the Holy Office after the publication of the Constitution *OFFICIORUM* are to be added to our commentary. On page 25, commenting on those words of the Constitution: "and all Catholics throughout the world shall religiously obey them," we wrote that no Catholic nation could be excused from observing this Constitution. And this was declared by the Holy Office: indeed, regarding a doubtful question: "Whether the aforementioned Constitution has binding force also for regions of the British language, which some believe are subject to a tacit dispensation?" The Sacred Congregation, after mature deliberation, on May 19, 1898, ordered that the answer be affirmative (1). Similarly, the words of § 5 apply only to those who are

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engaged in theological or biblical studies; we understand this to include not only those who teach in Universities, Colleges, Seminaries of Sacred Theology, or who prepare a scholastic course in the Holy Scriptures, but also those who apply themselves to these studies and sciences, whether they are clerics or laymen (2). These are our notes (1) *Acta S. Sedis*, Vol. XXX, page 698. (2) *Ibid*, page 179.

[*Latin ed. p. 313*]

ADDITIONAL CLARIFICATIONS: 513. The interpretation was confirmed by the Sacred Congregation of the Index, to which the following doubt was presented: 1.° Whether the words of Article V: "those who devote themselves to theological or biblical studies" should be understood only of "learned men dedicated to those sciences, or whether they can be extended to all beginners in Holy Theology?" The Sacred Congregation, after mature deliberation, ordered that the following response be given on May 19, 1898: Negatively to the first part, affirmatively to the second. (1). However, a similar doubt was again presented to the Sacred Congregation, and the following was asked: I. "Do those who come under the name of 'those who devote themselves to theological or biblical studies' include also students who study Theology and the Hebrew and Greek languages in the schools of Seminaries?" And, to the extent that it is affirmative. II. "Can a Bishop permit that, under the guidance of a Professor, students read and translate Hebrew and Greek texts published by non-Catholics, provided that the dogmas of the Catholic faith are not impugned in the introductions or annotations of such books?" The same Sacred Congregation, after mature deliberation on these same doubts, considered it fitting to respond on June 18, 1898: To I. Affirmative. To II. Negatively: unless a special permission has been obtained from the Holy See (2). And rightly so: For these texts of the Holy Scriptures are prohibited by the Apostolic See, and in whose statutes and laws the Bishops, being subordinate, have no power. Regarding § 14, and specifically those words: "Books which defend errors condemned by the Apostolic See are likewise prohibited," we wrote: "That these books should be subject to prohibition, they must not simply assert, but must vindicate the errors condemned by the Apostolic See" (3). (1) Acta S. Sedis, Vol. XXX, page 697-698. (2) Ibid., page 749. (3) Ibid., page 509.

[*Latin ed. p. 314*]

314. IOSEPHUS PENNACCHI. Haec eadem, similiter, sunt confirmata a Sacra Congregatione Indicis die 19 Maii 1898; nam propositum dubium erat: "An opera (quae "multa sunt") erroribus infecta, a Syllabo damnata, verbis "articuli 14 prohibita" censentur, quatenus errores ab Apostolica Sede damnatos continentia?" Sacra Congregatio mandavit respondendum: "Affirmativamente, si hos errores tueantur, seu propugnent (1)." Haec

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autem declaratio nullimode afficit ea quae de valore Syllabi scripsimus in nostro Commentario pagina 125, neque eius naturam mutare potest. Circa § 21, quae respicit diaria, folia et libellos periodicos, a Sacra Congregatione Indicis interrogatum est: "Utrum excerptaa periodicis capita separatim edita (vulgo "tirages à part") censeri debeant novae editiones, atque proinde nova approbatione indigeant, prout articulo 44 requiritur?" Die 19 Maii 1898 responsum est: "Negativamente (2)." Ratio autem huius declarationis manifesta est; nam excerpta, seu "tirages à part," nequeunt novae editiones censeri, cum eodem labore conficiantur; consideranda idcirco sunt veluti pars eiusdem editionis; attamen quoad hoc caput, legantur ea quae disserta reperiuntur in nostro Commentario, paginae 164, 165. Quantum attinet ad § 40, quae agit de licentia publicandi operis ab Ordinario concedenda, si nihil publicationi obsistat, interrogatum est: "An Ordinarii qui, prae facto examine alicuius libri, praeviae eorum censurae submissi, licentiam denegant eumdem publicandi, teneantur auctori rationes denegatae licentiae indicare?" Eadem Sacra Congregatio sub die 1 Septembris 1898 mandavit respondendum: "Affirmativamente, si liber videatur correctionis seu expurgationis esse capax." Datum Romae ex Secretaria eiusdem Sacrae Congregationis Indicis die 3 Septembris 1898. F. Marcolinus Cicognani O. P. a Secretis (3). Et quidem iure meritoque ita responsum est. Nemo enim (1) Acta S. Sedis Vol. XXX, pagina 698. (2) Ibid. pagina 698. (3) Ibid. pagina 256.

[*Latin ed. p. 315*]

ADDITIONAL NOTES TO THE COMMENTARY: 315. One may correct what he does not understand; therefore, those things which require correction must be indicated. This is especially important when secular men are dealing with matters of religion and with various dogmas of the Church; for, since they usually do not possess correct notions about these things, they can easily believe, think, and fall into error. Therefore, having learned the doctrine of the Church, these individuals readily and willingly accept the indicated corrections. However, this is not to be done for one who is incapable of correction, since it would be a different task for the author to write something diametrically opposed to what he has already written. Furthermore, those who submit the worst books to the Bishop for correction, do so not seriously, but rather to deceive him. What we wrote concerning § 18, that is, the edition of liturgical books, is recalled to mind. We expressed our opinion concerning paragraph 18, Chapter VII: In the authentic editions of the Missal, Breviary, Ritual, Ceremonial of Bishops, Roman Pontifical, and other liturgical books approved by the Holy See, no one should presume to change anything; if this has been done, these new editions are prohibited; we considered this to be true, after such a decree had given everyone the opportunity to print liturgical books, since no one is excluded, and nothing else is required other than conformity with the

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authentic editions; we wrote that, because of this, editors and printers, after such a license granted by Leo XIII, can print any liturgical books, with this one thing in mind, that the new editions must be completely in conformity with the authentic ones, otherwise, they are declared prohibited by the very act. From this, we inferred that neither the authority of the Sacred Congregation of Rites, nor the license of Bishops, is required for preparing and publishing such new editions (1). This same opinion was held by others, and by the Most Reverend Gennari, Assessor of the Holy Office (2), and by the Reverend Arthur Vermeersche, S.J. (3).

(1) Comment. Vol. XXX, page 358.

(2) Della nuova disciplina sulla proibizione e sulla censura dei libri, pages 53, and following. Second Edition. Naples, 1898.

(3) De prohibitione et censura librorum, pages 72, 73. Second Edition. Tornaci, 1898.

[*Latin ed. p. 316*]

316. JOSEPH PENNACCHI held a true opinion, although he considered this last point to be necessary, namely, that at least the recognition by the Ordinary is required, without which it cannot be ascertained whether the new edition conforms to the Roman archetypes; nevertheless, he concedes that it is not forbidden, even if it lacks such recognition. This opinion, while others remain silent, did not please the most distinguished writers of the *Ephemerides Liturgicae*, which are excellently written by the Vincentian Fathers, or those of the Congregation of Missions; and for this reason, they oppose it in Numbers 4 and 8 of the year 1812, on pages 206 and 521. Their arguments are as follows: 1.° Because the object of the more recent Constitution on Offices, of the year 1897, is entirely different from that which the ancient Constitutions, which precede the liturgical books, concern. Page 206. 2.° Because, if, as cited in § 18 of the Constitution on Offices, the Constitutions preceding the liturgical books were to be considered superseded, the following consequences would follow, which cannot be admitted; that is to say, that it would be permissible for anyone to publish liturgical books without any permission from the Holy Congregation of Rites or from Bishops; that it would no longer be necessary to append the approval of either the aforementioned Congregation or of the Ordinary to new editions; that these books, published without any approval, could be sold with a safe conscience; all of which are contrary to the current decrees, and to the declarations made both in the Secretariat of Holy Rites and in the Indices, etc. Ibid., page 209. They repeat and strive to confirm these things in N. 8 of the same year, page 521, in which place they ask: What does the new Constitution on Offices and duties prescribe concerning the old legislation on editions of liturgical books? And they again state a negative opinion with these words: "The new Constitution on Offices and duties leaves the old legislation concerning liturgical books entirely in force, because the

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object of the Constitution on Offices and duties is entirely different from the object of the ancient Constitutions, in which the legislation is contained for liturgical books; for this Constitution is to form the sole norm by which the Holy Congregation of Indices must be guided in noting books." Ibid., page 523. They demonstrate that this is the object of the Leonine Constitution from the following words which are read therein: "After mature deliberation and with the Most Reverend Cardinals of the Sacred Council..."

[*Latin ed. p. 317*]

TO THE COMMENTARY, ADDITIONS: We have decreed that certain books be published, which are listed below and are joined with this Constitution; by which the aforementioned Holy Council shall henceforth use only these, and all Catholic people throughout the world shall religiously obey them. We wish these to have the force of law, abrogating the Rules issued by order of the Holy Council of Trent, the Observations, the Instruction, the Decrees, the Admonitions, and any other regulations established by Our Predecessors on this matter, except for the Constitution *Sollicita ac provida*, which, as it has been in force until now, We wish to remain in force in the future. Ibid. 2°. From the very consideration of the Index of prohibited books, and from various parts, or paragraphs, in which the most illustrious writers affirm that nothing at all is contained regarding legislation concerning liturgical books. Ibid., page 524. They also say this is true regarding the Constitution *Sollicita ac provida*, which alone Leo XIII left in its full force. Ibid. Those who follow, and who attempt to prove the validity of their proposed opinion, do nothing other than demonstrate that nothing is found in the Constitution *Officiorum*, nor in the Index of prohibited books, that offends the authority of the Constitutions consulted for the edition of liturgical books, which are still being prepared, or are cited in the prefaces to those liturgical books. However, they maintain, in the contrary hypothesis, that is, our hypothesis, that this is inconvenient, namely, that the liturgical codes should be in a lower condition than many other books, since these, especially those concerning sacred and ecclesiastical matters, are subject to revision and approval by Censors and Ordinaries, while liturgical books are excluded. Ibid., pages 528, 529. Therefore, let us explain this. And 1°. We certainly wish that those most illustrious writers of liturgical ephemerides would agree with us, and that, having embraced the arguments by which they oppose our opinion; but they will forgive us if, with sincere intention, we confess that we have not been persuaded by the arguments presented, and therefore we retain our opinion until an authentic law, or a Decree issued or confirmed by the Roman Pontiffs, compels us to abandon it. Therefore, we contend that Leo XIII, through the aforementioned paragraph 18, abrogated whatever was concerning the

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edition of books.

[*Latin ed. p. 318*]

518. Previously, the regulations of JOSEPH PENNACCHI had been established, with the exception of those which he himself confirmed; consequently, the law established by him is the only one that all must follow. And from the beginning, no one will object that the Constitution concerning Offices and Duties is a universal law, to be observed by all, and that it constitutes the sole rule regarding matters pertaining to books. Furthermore, it is certain that Pope Leo XIII, in order to make his will clear to all, abolished all other statutes, decrees, and laws that previously had the force of law concerning such matters, without exception, whether explicit or implicit, except for the Constitution *Sollicita ac provida*. Therefore, the Constitution concerning Offices and Duties now provides, and must provide, the sole norm for the publication of liturgical books. Indeed, the Pope, in the testimony cited above and derived from the extensive Constitution, declares: 1.° That he will issue general decrees, by which the Sacred Council will henceforth use only these. Therefore, all other general decrees are excluded; otherwise, the Sacred Council would not, henceforth, use only the decrees issued by Leo XIII concerning the publication of books, but would also necessarily have to use the decrees issued by his predecessors, as we read in those Constitutions inserted in the liturgical books. For, according to the opinion of the most learned, these are not to be considered as having been abolished, and they still retain their full force. 2.° The Pope affirms that the general decrees issued by him alone have the force of law. We understand that these alone have the force of law. Therefore, other Constitutions may henceforth not have the force of law; and therefore, all other Constitutions that previously had the force of law must be abolished, just as the aforementioned Constitutions concerning liturgical books have been abolished. If these still had the force of law, the general decrees promulgated by Leo XIII would not alone have the force of law. 3.° In order that all may understand with what universality this is established, not only does the Pope abolish the Regulations of Trent, the Instruction of Clement VIII, the Decrees and Guidelines, all of which were included in the ancient Index and constituted the legislation concerning the matter of books, but he also abolishes any other provision or order concerning this matter that his predecessors may have established. Therefore, no decree of the Roman Pontiffs concerning this matter, that is, concerning the publication of books, has any force of law.

[*Latin ed. p. 319*]

To the commentary, additions 519 are to be referred, which, after the Constitution *Officiorum*, can have force; for the abrogation is universal, which admits of no exception. 4.° This is made even clearer, because Leo

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XIII excepts one Constitution, *Sollicita ac provida*, issued by Benedict XIV, whose principal, or even sole, purpose is to provide the Censors of books with criteria and norms for judging books, which are submitted to the Sacred Congregation of the Index. If, however, he excepts the Constitution of Benedict XIV; therefore, Leo XIII abrogated the other Constitutions of Roman Pontiffs concerning the matter of books. And it must be carefully considered that the Legislator uses words that suggest all manner of universality: and any other decree of our predecessors on this matter, except for one, etc.; which includes not only general decrees, but also particular ones. Furthermore, it is clear to the most learned Opponents that, on this matter, that is, concerning the matter of books, no other decrees had force before the Constitution *Officiorum*, except for the often-cited Constitutions for the publication of liturgical books. Therefore, if Leo XIII expressly abrogated all the decrees that preceded the ancient Index of prohibited books, and generally any other decree issued by his predecessors on this matter; if the cited Constitutions for the publication of liturgical books still retained their force, then the Pope would certainly not have abrogated any other decree issued on this matter, because before the Constitution *Officiorum*, there were no other decrees of the Pontiffs on this matter that had the force of law, except for the cited Constitutions for liturgical books. However, such reasoning is rejected by the most learned Opponents: 1.° Because, as we noted above, the object of the new Constitution *Officiorum* is entirely different from the object of the decrees, or Constitutions, which concern the careful publication of liturgical books. 2.° No argument can be drawn from the words on this matter that are read in the new Constitution, since those words are equivalent to the following: "on these matters"; but these, as they themselves explain, are equivalent to others: "on the norms for noting books." Page 524. Therefore, to respond: It is false that both the new Constitution and the old decrees that preceded the Index of prohibited books form a single norm for noting books.

[*Latin ed. p. 320*]

320 IOSEPHUS PENNACCHI observat, quod quidem verum est, quod instituere censuram doctrinalem in libris, qui ad Sacram Congregationem Indicis feruntur, est idem cum notare libros; sed in utroque documento, circa materiam librorum, omnia fere determinantur. Nam in Constitutione *Officiorum* agitur de editione, de denunciatoribus, de praelatis censurae praepositis, de libris praeviae revisioni subiectis, de typographis et editoribus librorum; haec Constitutio, nempe, comprehendit legem absolutam et plenam circa materiam librorum, et non paucas regulas pro notandis libris; constat, imo, regulas pro notandis libris ex minima parte continere, cum id muneris sibi assumat et perficiat Constitutio *Sollicita ac provida* Benedicti XIV, in qua vere et proprie traduntur normae pro libris notandis. Similiter, in antiquis regulis abrogatis,

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continetur universa de libris legislatio; agitur, scilicet, de prohibitione librorum, de correctione librorum, de impressione librorum, de libris prohibitis, nec in Indice nominatim expressis, etc., etc. Ergo, falsum est utrumque, novam, tum antiquam, legislationem ad librorum notationem seu censuram solum pertinere. Quod si clarissimi Scriptores dixerint, se per verba "notan" comprehendere quae utrumque documentum complectuntur, eo ipso confitentur, Leonem XIII verbis his de re designasse universam legem circa libros divulgandos, et non solam librorum censuram et prohibitionem: etenim haec duo duobus capitibus absolvi poterant. Cum autem Legislator nullam librorum classem excepit, sed, praemissa antea generali circa materiam librorum Constitutionum, statutorum, iussorumque Decessorum abrogatione, universalia prorsus decreta statuerit, sub iis etiam librorum editionem liturgicam in § 18 comprehenderit, non intelligitur quanta veritate affirmatur, decreta pro libris liturgicis edita manere intacta et integra post Constitutionem Leonis XIII; sed haec verba de re, alia quidem innuere et denotare, nullimode vero ad Constitutiones pro libris liturgicis referri, quae est altera cl. oppositorum exceptio. De his libris, e a omnia voluisse.

Post haec, demonstrari potest, Leonem XIII, dum paragraphum 18 sancivit, ad illas Constitutiones respexisse, easque habuisse sub oculis; impossibile, consequenter, esse ut vim suam adhuc retineant. (sequitur)

[*Latin ed. p. 321*]

ADDITIONAL POINTS TO THE COMMENTARY 521. And setting aside the argument previously presented, by which we demonstrated that Leo XIII had not abrogated any other statute or decree issued by his predecessors, if we except the Constitutions issued concerning liturgical books, because no other Constitutions of the Roman Pontiffs concerned the matter, force, and authority of books; it is certainly to be said that the Pontiff had before his eyes those decrees, not only in their meaning, but also in their very words, which he transferred into his Constitution; but it is certain that the aforementioned paragraph XVIII was taken, both in meaning and in words, from the Constitutions which precede the liturgical books. Therefore, etc. Indeed, St. Pius V, in the Constitution *Quo primum tempore*, dated 1570, after having first recounted what he had done, in order that a corrected and thoroughly revised edition of the Missal might be published, decreed that nothing should ever be added to, taken away from, or changed in the authentic Missal, under penalty of our indignation, etc. Clement VIII likewise decreed in the year 1604, in the Constitution *Cum sanctissimum*, in which he instructed the Inquisitors and Bishops not to permit anything to be added to, or taken away from, the authentic Missal which he had established for the entire Church. Urban VIII, the Pope, similarly decreed in the year 1634: nor should anything be added to, or diminished in, those [books]. As for the Breviary, St.

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Pius V, in the Constitution *Quod a nobis data*, dated 1568, after many preliminaries concerning the correction of the Roman Breviary (and would that something else were done to correct the few things that remain to be corrected), and with other statutes concerning the use of ancient Breviaries, decreed: We decree that the Breviary itself should never, at any time, be changed either wholly or in part, nor should anything be added to it, nor anything taken away from it. Clement VIII, in the Constitution *Cum in Ecclesia*, dated 1602, likewise commanded the Inquisitors and Ordinary officials of the places not to permit anything to be added to, or taken away from, the Breviary which he had amended for the better. Urban VIII, in the Constitution *Divinam Psalmodiam*, forbade both the Inquisitors and the Bishops to approve printed Breviaries, unless after they had ascertained that nothing had been added to them, nor anything taken away. Regarding the *Caeremoniale Episcoporum*, Clement VIII, in the Constitution *Cum novissime*, issued in the year 1600, decreed: And let the *Caeremoniale* of this kind, thus amended and reformed, never, at any time, be changed either wholly or in part, nor should anything be added to it, nor anything taken away. Vol. XXXIII, page CCCXC, 21.

[*Latin ed. p. 322*]

522. The opinions of Joseph Pennacchi can be entirely refuted. However, it has been demonstrated from the very Constitutions themselves that these regulations were established to ensure that the new editions of liturgical books remain *incorruptae* (unaltered). Therefore, paragraph 18 of the decree of Leo XIII is evidently derived from these Constitutions, since no other Constitutions of the Roman Pontiffs exist in which these matters are decided; but concerning the ancient law, which the legislator had before his eyes, only those things should be said to be in force which were taken from the legislator himself, approved, and intended to be observed, especially if he explicitly declares that he abrogates all other preceding Constitutions on the same subject. Therefore: 1.° The ancient Constitutions concerning liturgical books are to be considered abrogated. 2.° Nothing else is to be preserved, except that which is prescribed to be preserved in the aforementioned § 18 of Leo XIII. 3.° The purpose of the new and the ancient Constitutions is clearly identical, namely, to preserve the authentic editions of the liturgical books entirely and without alteration, although the means to achieve this may be different. 4.° It is not true that, through the Constitution *Ex Officiis*, the ancient Constitutions concerning the edition of liturgical books are implicitly superseded, but the opposite is true. After these points, it remains to demonstrate, through the aforementioned § 18 of the Constitution *Ex Officiis*, that Leo XIII demands nothing other than that nothing be changed in the liturgical books, without imposing any obligation of license, revision, or collation. And 1.° The words of the law are to be understood strictly and properly. But the words of the aforementioned paragraph 18

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signify nothing other than that nothing should be changed in the edition of the liturgical books; otherwise, prohibitions remain in force. Therefore, this is all that is imposed. 2.° It is wrong to deviate from the strict meaning of the words in matters of penalty, and to extend the meaning beyond what is obvious and permitted by the literal sense. But this law is of a penal nature. 3.° Whenever Leo XIII requires revision and approval of a work for printing, he usually expresses and commands this in his Constitution in explicit terms, as is evident from §§ 7, 13, 15, 17, 19, 20, 41. But in this § 18, he expresses nothing at all, he commands nothing at all. And it should be carefully considered that this paragraph 18 is found among 17, 19, 20, in which the faculty of legitimate authority for the printing of designated books is openly prescribed: so why was it omitted for the edition of liturgical books? In this matter, the legal principle must stand: the legislator has expressed what he wanted, and what he has not expressed, he did not want.

[*Latin ed. p. 323*]

TO THE COMMENTARY, ADDITIONS 323, 4.° What! Can we demonstrate from the very words written by the most eminent opponents on page 526? Thus they speak: "If, however, you inquire, therefore, for what reason in § 18, Chapter VII, 'The Constitution concerning Offices and women regarding the liturgical books' is concerned with editions, the answer is readily available. Because, indeed, the prohibition of any book, whether sacred, profane, ascetic, mystical, or even liturgical, or of whatever other nature, constitutes the object of the Sacred Congregation of the Index. Moreover, whatever work, whatever addition, whatever change in any codices of the Church, consequently also in the liturgical ones, immediately, as soon as it appears, falls within the jurisdiction of the same Sacred Congregation of the Index. Which, of course, does not prevent the Sacred Congregation of Rites from prohibiting something, if it pertains to the Sacred Rites, as is demonstrated by those things which are recounted in paragraph IV of the Decrees of the Congregation of the Index, since they themselves have been prohibited by the same Sacred Congregation of Rites." With these words, our opponents clearly assert that the Sacred Congregation of the Index is also concerned with liturgical books, and that it is occupied with their editions. But from the Constitution concerning Offices, it is clearly established that, in matters pertaining to books, the Sacred Congregation of the Index must use only the general decrees of its own Constitution: we have decreed that general decrees should be issued... which the same Sacred Council shall henceforth use exclusively. Moreover, the most excellent writers themselves concede this, as on page 523, after quoting the words of Leo XIII, they infer: "From these words, it is clear that the new Constitution, with all its Decrees, or titles, chapters, and numbers, constitutes a single norm, which the Sacred Council must use in noting books." Therefore, the Sacred

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Congregation of the Index is not obligated, nor should it use other decrees in noting books, that is, in explaining its own authority concerning all those things which are prescribed in the Constitution concerning Offices, among which is the edition of liturgical books. But if the ancient Constitutions of the Roman Pontiffs still retained their force concerning liturgical books, the Sacred Congregation of the Index would be obligated to observe them. Therefore, Leo XIII falsely prescribed that the Sacred Council should use exclusively the general decrees issued by him, and falsely, the eminent opponents have stated what we have mentioned above.

[*Latin ed. p. 324*]

524. JOSEPHUS PENNACCHI: Nos non intelligimus ad quid oppositores nostri, in subsidium causa suae, allegaverint paragraphum IV Decretorum antiqui Indicis, cum sciant illum abrogatum esse. Ex iis quae diximus, videtur satis constare, quod thesis a clarissimis oppositoribus propugnata, scilicet, quod per novam Constitutionem Officiorum, non abrogentur aut infirmentur, imo non destruantur veteres Constitutiones de edendis libris liturgicis, fundamento solido careat; an, contra, id est, nostra, thesis solidioribus nitatur argumentis, lectores iudicent. Adductis autem, aliud addere placet, quod nemo fortassis aspernabitur. Paragraphus 18 illum habere sensum, et illam potest interpretationem admittere, quam nos sequimur; interpretes de cetero non mediocris notae, idipsum scribunt et fateriuntur. Sed cum verba legis certum et exploratum sensum 'non innuant, cum mens legislatoris ex iis deprehendi non potest, cum interpretes in lege declaranda decertant, lex profecto ambigua censenda est et obscura. Sed in ambiguis et obscuris mitiorem sententiam esse tenendam, iura ipsa statuunt, et hoc clarissimis adversariis non latet. Cum igitur sententia mitior ea sit, quam nos sequimur; cum eius sit legem interpretari, cuius est condere, usque dum authentica interpretatio § 18 non prodeat, universi tuta omnino conscientia sententiam nostram sequi poterunt, quin antiquas Constitutiones Romanorum Pontificum circa libros liturgicos transgredi periclitentur. Attamen Romani Patres, ut rem suam tueantur: 1.° Plurima afferunt decreta authentica a Sacra Congregatione Rituum edita, quibus antiquarum Constitutionum observantiae insititur, et ea promovetur. Pag. 208. 2.° Dicunt, decreta illa inseri adhuc debere, et inserta idcirco fuisse in novissima Collectione authentica, cuius primum iam volumen prodiit. 3.° Tam in Sacra Rituum Secretaria, quam in alia Indicis, certiores de veritate sententiae ab se propugnatae fuisse. 4.° Denique praxi inducta eam confirmari, cum tum anno 1897, tum sequentibus, plures prodierint editiones librorum liturgicorum, quae ferunt et Ordinarii loci et Sacra Rituum Congregationis approbationem in forma speciali. Pag. 209. Haec igitur sunt a

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nobis consideranda.

[*Latin ed. p. 325*]

ADDITIONAL NOTES: And with regard to the matter itself, we observe that all the decrees cited by the esteemed authors date prior to the year 1897, that is, the Constitution *Officiorum*, since they do not exceed the year 1871; therefore, they cannot provide any argument to undermine our opinion, which it would have been necessary to refute by citing decrees issued at a later time. Secondly, the esteemed Vermeersch has already responded, warning his readers that the examination of the new collection of rites had already begun before the promulgation of the Constitution *Officiorum*; therefore, the Holy Congregation, considering the decrees still in force, included in the collection those decrees from which questions were to be resolved. But the question is: do these decrees, even though included in the collection, retain their force after the Constitution of Leo XIII? Could the Holy Congregation now prohibit the publication of an edition of liturgical books that is completely in conformity with the authentic texts, without the permission of any bishops or the Congregation of Rites? Could the editors now not take advantage of § 18 of the Constitution *Officiorum* to protect their own interests? Furthermore, from the fact that the decrees of the Holy Congregation of Rites, still cited in the collection, are included therein, it does not follow that they retain their force, nor that, from the part that was retained and confirmed in the Constitution *Officiorum*, namely, the part that prohibits any changes from being made in the editions of liturgical books; for that part retains its force because of the Constitution *Officiorum*. As a fitting example to confirm this, the Roman Fathers know that, by the Apostolic Constitution, the censures imposed by Pope Pius IX were limited to the judgments of the Congregation, and consequently, the greater excommunication was abolished for those who dared to alter liturgical books; they also know that a fine of five hundred gold scudi fell into disuse; nevertheless, these Constitutions are still included in the liturgical books, as having been issued by the Roman Pontiffs. Do the penalties still retain their force, because the Constitutions are still included in the Missal, the Roman Breviary, and other liturgical books? But what if these decrees are included therein, not because they retain their force, but because they are authentic, or genuine, that is, because they were truly issued by the Holy Congregation of Rites? How many laws and decrees of princes exist in the codes, which now impose no obligation whatsoever, yet are authentic, and...

[*Latin ed. p. 326*]

326. Quare, igitur, Iosephus Pennacchi in codicibus retinetur? Et exemplum potest esse ipsum Bullarium Romanum, cuius fortasse dimidia pars Constitutiones Pontificias abrogatas et revocatas continet. Exemplum

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aliud petere posset ex collectionibus Conciliorum; et alia exempla non pauca possent ipsi clarissimi oppositores nobis suggerere. Ita ut in hoc syllogismo: Illae leges aut decreta adhuc inseruntur in collectionibus authenticis; ergo adhuc vim suam retinent; consequens desideratur, nisi antecedens illa tantum decreta inserta praedicet quae praesentem vim habent. Ad 3. Responsum in promptu est; scilicet, responsa officialium Curiae Romanae neque vim legis habere, neque certitudinem parere, sed esse habenda veluti privata iudicia. Ad inducendam certitudinem, non solum requiritur decretum latum ab universa Congregatione, sed insuper a Romano Pontifice confirmatum; hoc autem decretum adhuc desideratur. Per eiusmodi sed vero responsum, nullimode scientiae detrahimus officialium Curiae Pontificiae; sed unum dicimus, per ipsos non efformari Congregationem, neque leges et decreta statui, neque authenticas dari interpretationes. Nos insuper latet omnino, an aliquando ad competentes Congregationes eiusmodi quaestio delata fuerit, et saltem discussa, ita ut officiales ex voto consultorum potuerint sententiam coniectare. Brevius: ad labefactandam nostram sententiam requiritur declaratio authentica. Ad 4. Petimus 1.°: an praxis trium annorum, et in paucis casibus exercita, possit vocari praxis, et inducere consuetudinem, quae vim legis habeat? Nam ad hanc inducendam requiritur, inter alias conditiones, actuum frequentia et temporis diuturnitas. 2.° Quaerimus: an ita egerint editores, quia noverint vel putaverint, per Constitutionem Officiorum intactas dimissas fuisse veteres Constitutiones Romanorum Pontificum circa editionem librorum liturgicorum, et unde id noverint?; vel quia id ignoraverint?; vel controversum animadverterint?; vel ita egerint ut editionibus suis maiorem securitatem auctoritatemque conciliarent? Quacumque vero de causa ad ita agendum editores moti fuerint, eorum agendi ratio firmum non suppeditat, argumentum. 3.° Ulterius: quomodo oppositores demonstrabunt, hos editores ad ita agendum lege Leonis XIII compulsos fuisse? Etenim an factum ex iure procedat, sub quaestione cadit.

[*Latin ed. p. 327*]

ADDITIONS TO THE COMMENTARY 327 And these same questions involve the Bishops and the Holy Congregation of Rites, since they granted the requested permissions. What if they acted not out of necessity, but out of connivance, in order to please those who were requesting [something]? Whatever the case may be, the mere fact of a concession and approval by one or the other does not demonstrate the correctness of the opposing opinion. For a fact must be in accordance with the law in order to provide proof. But the right of the Ordinaries and of the very Holy Congregation of Rites, concerning the approval, revision, and collation of liturgical books after the Constitution *Officii*, is at least doubtful. In such a case, the more lenient opinion should be followed. Finally, we heard from an authentic

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source that the editors are now turning to the Holy Congregation of Rites, not for a revision or approval, but for one testimony of conformity of the new edition with the authentic exemplars, so that the argument might be turned back against the opponents themselves. However, the learned opponents object, if our opinion is maintained, that the liturgical books will fall into a worse condition than others, since these are subject to revision and approval, and those are not. But this objection lacks equal weight; for in other books which are subject to censorship and approval, a prior judgment must be given concerning the religion and orthodoxy of the authors; and therefore, they must necessarily be subjected to a careful examination; but in liturgical books, such an examination is not to be instituted, but only a conformity with the typical editions must be ensured. Moreover, when the legislator decrees that a published edition is immediately prohibited if anything is found to have been changed in it, this itself seems to have sufficiently provided for the security of the liturgical books, even though a prior approval and subsequent collation are not prescribed. For the editors will be careful not to deviate in any way from the typical editions in new editions of liturgical books, since they know that they will immediately lose their labor and expenses. It is, of course, no secret how much and in what ways editors are accustomed to act in order to secure favor for the edition they have produced; but they would gain nothing, if the completed edition differed in any way from the authentic one. Indeed, it is impossible for such discrepancies to remain hidden; for this reason, it is to be considered very difficult (although sometimes it has happened that even the Constitutions for liturgical books have shown this), that they could be induced to change anything in new editions for the sake of base gain; for such changes would rather bring about their ruin, especially since many are now printers.

[*Latin ed. p. 328*]

328. JOSEPHUS PENNACCHI, printers and publishers, who diligently perform their duties; and those who, if they noticed that any edition of liturgical books differed from the official texts, would immediately be preparing complaints, lest they suffer damages from the sale of prohibited editions. Therefore, a response is also prepared for those who ask: who will be the judges of the conformity of the new edition with the official texts? Indeed, all those to whom the books are submitted will be obliged to report to the Apostolic See; all Church officials who notice changes in these new editions; and other printers and publishers who suffer damages from the prohibited edition; and the comparison itself is quite obvious and easy, and does not require liturgical knowledge. Now, let us state the matter according to knowledge: In the often-cited § 18, uniformity is prescribed: nothing is to be changed; the comparison by legitimate authority is not prescribed; and it is not permissible to extend this law to other things. If they say that this comparison is implied, we will reply that, indeed, many things can

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be implied in laws, but that things implied are not necessarily subject to the obligation; especially if we are dealing with penal matters. Finally, it seems that liturgical books should certainly be subject to comparison and approval, because they are included in § 41, which states that all the faithful must subject to prior ecclesiastical censorship, among others, books concerning religious or moral disciplines, and generally all writings in which matters of religion and morality are particularly involved (I). But we reply that, in the cited § 41, which deals with books subject to prior censorship, liturgical books were completely omitted, as we have already pointed out in our Commentary. It is clear that these books cannot be included under the words cited, because in those words it is spoken of works, treatises, writings, interpretations of Holy Scripture, Theology, Church History, etc., and not of the simple text of the Divine Scriptures, or of liturgical books; and this is evident from the context, the meaning, and the words of the entire § 41. Indeed, if someone were to publish a commentary on liturgical books, this work would be subject to prior censorship, but not if the liturgical books themselves, as the Church uses them, were to be printed. Indeed, as Vcrmeersch, Op. cit., page 73, Edit. 2, states.

[*Latin ed. p. 329*]

ADDITIONAL POINTS TO THE COMMENTARY: 529. Those who are unable to pay, whether through works, or writings, or books of that nature, about which we spoke in § 41, are not subject to such penalties, nor do they fall under such designations. Therefore, we must remember, as we have often observed, that a harsh or penal law must be strictly interpreted, and cannot be extended to other cases, nor on the basis of logical similarity; for the legislator is to be understood to have intended what he expressly stated, and not to have intended what he did not expressly state. However, nowhere is it stated that liturgical books are to be subjected to censorship, collation, and approval; only that a certain mandate was given, namely, that no change whatsoever should be made in new editions of liturgical books: no one should presume to change anything; and therefore, this must be strictly observed, and nothing else imposed; for it is unlawful to impose specific obligations without a certain law. The same principle applies in §§ 47 and 48. We have, at least implicitly, affirmed this, when on page 254 we wrote: "Who are designated by the name 'imprimentes' is declared in the subsequent paragraph, that is, page 248." The Reverend Wermeersch, on page 56, objected to this reasoning, arguing that a fine of one hundred guilders, without hope of remission, imposed by the Council of Lateran V, cannot be paid by the workers, but only by the owner of the workshop, or the administrator; and it is absurd to suppose that the legislator intended to condemn the workers to the impossible. He concludes, therefore, that in § 48, the term "imprimentes" must be understood in a stricter sense than in § 47. However, this reasoning, which seems to resolve the issue at first

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glance, completely collapses if we consider that the workers, even those who contribute to the printing process, are not liable for the fine; for they are doing what the owner of the workshop has ordered; and servants are not liable for the fine for a prohibited or forbidden work, but the master, to whom the servants obey, and must obey, is liable. For it is the master who acts through others: and he who acts through another seems to act through himself. Hence, in the cited Canon of the Lateran Council, it was the owner of the workshop, or the administrator, who was liable for the one hundred guilders, not the other workers. Furthermore, before Leo XIII, this fine was abolished, or at least fell into disuse; therefore, nothing else is now...

[*Latin ed. p. 330*]

330. JOSEPHUS PENNACCHI remains, for § 48, unless simple excommunication is reserved for no one. Furthermore, Leo XIII decreed that the new regulations promulgated by him would have force only by his own authority. However, he used the word "promulgated" in the sense in which it was understood in ancient law; in this sense, at least those who were engaged in the work of printing were included. No reason appears after this, by which the word "promulgated" should be understood in a stricter sense in § 48. Whether Regular clergy are bound by the prohibition of books issued by Bishops. Indeed, we defend this in our commentary, page 191, and following, with arguments that did not seem to us to be unworthy. However, these arguments were not considered solid by the Reverend Father Wermeersch, who, for this reason, in the second edition of his Commentary on the Constitution *Officiorum De Censura et Prohibitione librorum* - pages 50, and following - attempts to refute them; especially those that we presented from the Encyclicals *Inter multiplices* of Pope Pius IX, from Chapter 12 of the Council of Trent, Session 25, from the faculties granted by the Sacred Congregation of the Index, and from § 26 of the Constitution *Officiorum*, and from the obedience due from Regular clergy to Bishops in matters of faith; but he is entirely mistaken, because he establishes the truth of his opinion based on the general privilege of exemption enjoyed by Regular clergy. Furthermore, he writes that, in the Encyclical *Inter multiplices*, power was delegated to the Bishops, so that the rapidly spreading evil of harmful writings might be more quickly addressed in each diocese. And that the delegated power was granted because of the declared necessity of prompt coercion. We respond to this argument to some extent in our Commentary, pages 194, and 195; but we consider it necessary to reexamine it, because the Reverend author admits that the power delegated by Pope Pius IX to the Bishops in this matter was done so that evils that arise from the reading of harmful books might be more quickly addressed.

[*Latin ed. p. 331*]

TO THE COMMENTARY, ADDITIONS 334. If we are mistaken, it does

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not seem true (1). Indeed, Pope Pius X, having previously recalled to the memory of the Bishops the mandate of Leo XII, by which he commanded the Bishops that, because it was utterly impossible (according to the Congregation of the Index) to refer all the harmful books constantly appearing to the Index, they should, with their own authority, strive to remove those books from the hands of the faithful (2), subsequently urges the same to be done by the Bishops. Since this provident arrangement of the apostolic mandate responds best to the present needs of the faithful, and to the preservation of doctrine and morals, it seemed good to Our Most Holy Lord that its memory be recalled and that its observance be demanded by the Ordinaries of the places. However, to fulfill such a task, Pope Pius IX does not grant any delegated power to the Bishops: so that it does not seem at all true that Pope Pius IX granted a delegated power to the Bishops, so that the rapidly increasing evil of harmful writings might be addressed in each Diocese. Nor do the words of the Pontiff, which are cited in note 5 by the learned author, prove this: "To those [officials] if they show due obedience, the gravest evils are removed, especially in those Dioceses in which the need for prompt coercion is pressing; for these Dioceses, in which the need for prompt coercion is pressing, are some, not all; but Pope Pius IX sent his letters to all the Bishops, and enacted a law for all Catholic Dioceses. Since, therefore, the need for prompt coercion did not affect all Dioceses, but some, it cannot be said that the Pontiff enacted this law for this reason, so that the rapidly increasing evil of harmful writings might be addressed in each Diocese; for what is general is said of all, not of some. Furthermore, it must be noted that in that place, prompt coercion is not connected with delegated power, but with prompt obedience: "To those if they show due obedience." Thus, delegated power does not even have a place. From these things, our readers will observe that what is asserted by the most excellent opponent requires proof: and that, when the declared necessity of prompt coercion is immediately connected with granted delegation, page 51. (1) Letters are found among many in Volume XXX, page 401. (2) This mandate is read there, page 400.

[*Latin ed. p. 332*]

332. JOSEPH PENNACCHI: But what is it that is most clearly evident from the words of Pius IX, namely, that this delegated power was granted to the bishops not for the purpose of swifter coercion, but solely to restrain the audacity of those who, through a lack of jurisdiction in the bishops, dared to scorn and disregard the judgments and prohibitions of the Ordinaries, and to treat them as if they were not valid? Indeed, he says, that no one, under the pretext of a lack of jurisdiction, or under any other pretext, should presume to rashly disregard the sentences and prohibitions of the Ordinaries, and to treat them as if they were not valid; and that His Holiness has granted, (as He grants now by His name and authority) that

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in this matter, they should proceed even as delegates of the Apostolic See, notwithstanding any opposition. What, then, is the purpose proposed by the cited author? What is the case mentioned in the Declaration of Clement VIII, in which a bishop is preventing the publication of a book that has been permitted and widely circulated in another diocese? Or, what of a book that has not been placed on the Index of Prohibited Books, but is being disseminated with false and simulated permissions? Furthermore, these cases are singular, but Pius IX speaks generally of any book prohibited by the bishops; moreover, the case of an episcopal prohibition is not rare; and finally, no one will deny that, in the three cases cited, a bishop can prohibit a book if he judges it to be useful and opportune (1). (1) Cf. Armot, op. cit., 213-214. Furthermore, in the cited passage, the author quotes Albitius, *De Inconstantia in Fide*, Cap. XXX, n. 164-186. What does this author write here? N. 164: "Concerning books of doubtful reading, whose reading may pervert morals or ecclesiastical discipline, bishops have greater power; for even lay princes can prohibit books that are infamous, obscene, and seditious, and others of this kind." N. 165: "But the booksellers of Venice complained that it would be very damaging and injurious to the author, printers, and booksellers, if they were subject to the censure of any bishop, and that once, as if by a definitive judgment, it would be subject to the will of another." Nevertheless, Albitius declares: N. 166: "It must be held that a bishop can prohibit in his diocese a book printed in another diocese with the license and approval of the Ordinary and the Inquisitor, indeed, even one permitted by the Holy Congregation of the Index." N. 186: "Furthermore, the Supreme [Congregation] often grants to some Inquisitor the power to grant such licenses; thus, it granted to Cardinal Zappata, the Major Inquisitor in the Kingdoms of Spain, to pious and learned men, a license to retain and read the books of heretics for a certain time, ordering them to show the works, and if they are solid and learned,..."

[*Latin ed. p. 333*]

ADDENDUM. Pope Pius IX conferred this delegated power upon the Bishops, not only against those who were causing a deficiency in jurisdiction, but also under another pretext, which extends to more things, presuming to scorn the judgments of the Ordinaries with audacious temerity, and to consider them as not being valid; but these words cannot be referred to specific actions. Finally, this delegated power conferred upon the Bishops by the Pope, allows them to proceed in this matter, notwithstanding any and all obstacles; but this clause concludes the true reasons, concessions, customs, privileges, etc., which may be opposed to the delegated power; and if, among these obstacles, the exemption of Regular Canons is included, then it must be said that the Pope has either abolished this privilege of the Regular Canons, or has not recognized it. Nor can anyone object that this deficiency in the episcopal jurisdiction could have been urged in those

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regions, in which it was affirmed that the Index of prohibited books never had force. Indeed, such an exception would be invalid, if it were considered that, in this case, the delegated power conferred upon the Bishops would not have had any force; moreover, Pope Pius IX speaks of all the Bishops of the Catholic Church, and confers this delegated power upon all of them, and in general, he rebukes those who are causing a deficiency in jurisdiction among the Bishops. The most outstanding opponent then strives to weaken what we have presented from Chapter 12, Session XXIX of the Council of Trent (1), in which place we affirmed that Regular Canons are subject to the censures promulgated by the Bishops; but if the Bishops can prohibit the reading of certain books under censure, then even Regular Canons, even if exempt, are bound to observe that censure, and consequently, must abstain from reading books so prohibited. Against such an argument, the aforementioned opponent proceeds as follows: "It unjustly affirms that Regular Canons are subject to all the censures of the Bishops; for, as we have just said, this license, which is taken away when they do not refute heresies with a more severe and less common method, declares that there is no declaration: As from the day of November 25, 1627. But this faculty, as insisted upon by the same Cardinal Zappata, was later revoked to him." This is what Cardinal Albitius writes. But what follows from this against our opinion and argument, we cannot understand.

(1) See Commentary, Vol. XXX, page 407.

[*Latin ed. p. 334*]

534. IOSEPHUS PENNACCHI: "Ipse, qui solis ad res materiales pertinentes subiectus est, quae 'expressly' Episcopis subduntur. Sed in re, Concilium Tridentinum, Sessio XXV, Caput 15 (12), ubi de censuris observandis in Ecclesiis Regularum agitur, sicut interdicta, prohibitiones, et cetera." Cf. Reiffenstuel 1, 31, 126. "Ergo, argumentum clarissimi oppositoris est: Regulares exempti Episcoporum censuris obstringuntur, quae ad res materiales pertinent, qua Episcopis 'expressly' subduntur. Sed circa prohibitionem librorum, Regulares exempti Episcopis 'expressly' non subduntur. Ergo, censuris eiusmodi Episcopalibus, Regulares exempti non obstringuntur. Sed perpendat clarissimus auctor, quaestio in eo prorsus versari: an Regulares exempti subdantur Episcoporum censuris latis in prohibitione librorum. Id vero veluti certum assumitur in minori. Caput Tridentinum autem generale prorsus est, neque exceptionem patitur. Illud iterum exscribimus: 'Censurae et interdicta, non solum a Sede Apostolica emanata, sed etiam ab Ordinariis promulgata, mandante Episcopo, a Regularibus in eorum Ecclesiis publicentur atque servantur.' 'Censurae,' inquiunt Patres, 'et interdicta, non solum interdicta aut prohibitiones, etc.' Tenentur insuper Regulares observare tam censuras ab Episcopis latas, tam quae a Sede Apostolica promulgatae fuerint. Num haec tantum interdicta et poenalitatem promulgat? Constat utique ex Tridentino Capite, Regulares

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Episcoporum censuris et interdictis non obstringi, nisi mandante Episcopo; ergo, si mandaverit, obstringuntur. Neque Reiffenstuel, loco citato, id docet quod clarissimus oppositor affirmat; inquit enim: 'Regulares non solum censuras et interdicta a Sede Apostolica emanata, sed etiam ab Ordinariis promulgata, mandante Episcopo, in suis Ecclesiis publicare et servare tenentur. Ita Conc. Trid. et Sess. 25, cap. 12, de Regular. Unde sequitur, quod Regulares, quantumvis exempti, non solum teneantur observare Episcoporum interdicta (nisi quatenus super hoc sunt privilegiati), aut a iure conceditur. Is qui, 26 § ßn. de sent. excom. in 6, sed nec possint facere quod ab aliis celebretur in locis ita interdictis; neque possint excommunicatos ad divina, vel ecclesiasticam sepulturam admittere. Cap. Cum et plantare § Excommunicatos de Privileg, et Cap. Episcoporum 8 eod. in 6°.' Hoc ergo in loco nullibi Reiffenstuel docet, non obstringi."

[*Latin ed. p. 335*]

ADDITIONAL POINTS TO THE COMMENTARY 555. Regular clergy are exempt from the censures imposed by Bishops. However, if, having overlooked the censures, an interdict is introduced as an example, the reason may have been this: because more serious questions arose, due to privileges, concerning the observance of interdicts in the churches of Regular clergy, imposed by Bishops. Furthermore, as others have written, let us pass over all but Natalis, writing to Alexander, Bishop, No. 26: "Ecclesiastical censures and interdicts promulgated by Ordinaries must be published and observed by the Regular clergy in their churches. This is stated in the Council of Trent, Session (1), chapter 12." Therefore, the argument presented by us, namely that, since we have shown that Regular clergy are, by law, exempt from Bishops, the Bishops can prohibit a book under censure, and consequently, the Regular clergy are bound, by order of the Bishop, to publish and observe it; this exemption, therefore, is not general in this matter. However, regarding other books not prohibited under censure, we have, as yet, not been able to find that they demonstrate that they are not subject to this. Moreover, the author also refutes the argument presented by us from § 26 of the Constitution *Officiorum*, which states: "All who have obtained the apostolic faculty of reading and retaining prohibited books, cannot therefore read and retain any books whatsoever, or periodicals proscribed by the local Ordinaries, unless a power to read and retain books condemned by anyone has been expressly granted to them by the Holy See" (2); concerning the force of this decree, he writes: "And finally, since we argue from the privilege of exemption, by virtue of which they [the Regular clergy] are not subject, and as if they are outside the Diocese, and not from the faculty granted by the Holy See to read prohibited books, what is the purpose of article 26 of the present Constitution, which denies that this faculty allows the reading of books proscribed by the Ordinary?" (3). We frankly admit that we do not understand the force and connection

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of this reasoning; therefore, having dismissed the direct response, we will observe that the question concerns: whether, under the privilege of exemption, (1) *Theolog. Dogm. et moral. Tom. I. Appendix I. pag. 16.* (2) *Acta S. Sedis Vol. X X X , pag. 408, where there is also the decree of the Holy Congregation of the Indies issued on December 6, 1895.* (3) *Page 55, note 2.*

[*Latin ed. p. 336*]

556. JOSEPHUS PENNACCHI affirms that the Regulars enjoy the privilege, which we have always denied, of reading books prohibited by the Bishops; and he claims that his opponent wrongly assumes this, while arguing in its favor, asserting that he has derived arguments from the privilege of exemption. Furthermore, we observe that, by the general obligation of the Constitution *Officiorum*, the Regulars, even those exempt, are indeed bound by it. If, however, by the force of this § 26, the Regulars are excluded from the privilege of reading books prohibited by the Bishops, we do not see what they can reply. And this, it does not seem difficult to demonstrate. For: Among all those who have obtained the apostolic faculty of reading and retaining prohibited books, the exempt Regulars are also included; for these cannot read and retain prohibited books without the apostolic faculty. But: All who have obtained the apostolic faculty of reading and retaining prohibited books, cannot therefore read and retain any books whatsoever, or periodicals prohibited by the local Ordinaries, unless they have been expressly granted, in the apostolic indult, the power to read and retain books condemned by anyone. Therefore, even the exempt Regulars who have obtained the apostolic faculty of reading and retaining prohibited books, cannot therefore read and retain any books whatsoever, or periodicals prohibited by the local Ordinaries, unless they have been expressly granted, in the apostolic indult, the power to read and retaining books condemned by anyone. The major premise of this syllogism is evident, provided that the exempt Regulars do not claim to be able to read and retain prohibited books without the authority of the Apostolic See. The minor premise is § 26 of the Constitution *Officiorum*. We do not understand how this can be denied. However, the practice of the Congregation of the Index adds the greatest strength to this argument. For, whenever faculties are requested from the Congregation of the Index, even by Regulars, to read books prohibited by the Bishops, these are denied, so that the Pontiff may not seem to be dispensing with the law of the Bishop, without his consultation; thus, it is necessary for everyone to obtain such faculties directly from the local Ordinaries. But if the Regulars were exempt from such a law, neither would they seek these faculties, nor could the Holy Congregation of the Index deny them. Nevertheless, we have learned from those who preside over the Congregation of the Index, on this very occasion when we were brought

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there, that this is the case, and that it is so.

[*Latin ed. p. 337*]

ADDITIONAL POINTS TO BE CONSIDERED 537 concerning how the Holy Congregation conducts itself with regard to Regular Canons in granting permissions to read books prohibited by Bishops. From this practice, it is readily inferred that neither the Roman Pontiff nor the Holy Office grants such a privilege to Regular Canons exempt from jurisdiction. We say nothing about the argument that we presented concerning the subjection of Regular Canons to the jurisdiction of Bishops in matters of faith (1), from which it necessarily follows that, since many books are prohibited because they undermine the discipline of the faith, in such judgments, Regular Canons exempt from episcopal authority are subject to the Bishop; which, indeed, the most learned opponent concedes. He asks: "But by what right do you transfer this to all books, even those concerning morals, and not condemned by the Prelate himself, so that those Regular Canons who read these books may be considered suspected of heresy, and you say they should be reported to the Bishop, so that Superiors cannot correct the guilty?" Indeed, by that right, which shows that the exemption of Regular Canons with regard to this matter is not universal, and which is not proven by the opponents with any argument, that they are not subject to other Episcopal prohibitions that do not touch upon dogmas of the faith. 2°. By the right by which it is determined that Regular Canons are subject to the Bishop in those matters that pertain to the delegated jurisdiction of the Bishop. "Regular Canons," writes Ferraris, *V. Regulares, Art. III, n. 112, are bound by "synodal constitutions, in those matters that concern the care* (1) In this argument, the learned author again cites Albitius, *De inconstantia in Fide*, nos. 44, 95, 97. We write down these numbers. N. 44. Albitius asks: "A relative receiving a heretical relative for the sake of profit and money, when and how should he be punished?" N. 43. "Those who possess books of heretics are suspected of heresy." N. 96, near the end. "Therefore, the practice in the Holy Office is that if books of heretics, or other prohibited items, are found with someone, especially fortune-telling books, or N. 97. "Qualified incantations, the retention of which is prohibited by the Bull of John XXII, and most recently by the Bull of Sixtus V, and by Rule VIII (IX) of the Index, in which books of Geomancy, hydromancy, etc., are prohibited. It is, I say, the practice, N. 98. "that if someone is found with such books, and he says that he has not read them, nor used fortune-telling, nor incantations, he is questioned about their use, accomplices, and intention; and if he insists, he is imposed with an abjuration of a lesser degree." What does this have to do with our matter?

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Acts, Vol. XXXIII, page CCCXC, 22.

[*Latin ed. p. 338*]

558 JOSEPH PENNACCHI: "the administration of souls, the sacraments, and jurisdiction delegated by the Bishop." However, it is clear that Pope Pius IX at least delegated the power to Bishops to prohibit harmful books, as is evident from the above and from the very concession of the esteemed author, who states that this was the first Pope to grant this power to Bishops, page 51. Finally, from the law that results from what we have written above. But you might say: what if this judicial authority belongs to the Bishop as an Inquisitor, while he prohibits books as a Pastor and Doctor? But, firstly, whatever the reason this authority belongs to Bishops, it is certain that books that impinge upon the dogmas of the faith pertain to the faith; and in matters pertaining to the faith, the Regulars are subject to the Bishop. "The Regulars," writes Ferraris again in the aforementioned place, number 9, "are subject to Bishops in matters of faith, as the Council of Trent, Session V, 'de Reform,' chapter 2; Paul V, Constitution 'Romanus Pontifex'; Gregory XV, Constitution 'Universi dominici,' state, where they are subjected to the Bishops and Inquisitors themselves." Secondly, Bishops prohibit books, indeed, as Pastors and Doctors, but as Pastors who have jurisdiction, not only ordinary but also delegated, as is evident both from the concept of prohibition, which cannot be understood without jurisdiction, and from the words of Pope Pius IX in the aforementioned Constitution 'Inter multiplices,' in which he says: "Lest anyone, under the pretext of a lack of jurisdiction, or under some other pretext, should presume to scorn or disregard the judgments and prohibitions of the Ordinaries." Indeed, the esteemed Wermeersch strongly argues from the principle of exemption, stating that this principle holds: "With regard to jurisdiction, the Bishop can do nothing with the Regulars unless it has been expressly granted to him by law." However, the learned man knows that the privileges of the Regulars have been subject to many changes, exceptions, confirmations, and revocations since the Council of Trent. Benedict XIII, in numerous constitutions, restored all the privileges of the Regulars, especially in the Constitution 'Pretiosus' dated May 25, 1727; but these were subsequently revoked by Clement XI through the Constitution 'Romanus Pontifex' dated March 29, 1732, so that they were revoked as if they had never been issued.

[*Latin ed. p. 339*]

ADDITIONAL POINTS TO THE COMMENTARY: 359. Moreover, the Pontiff decreed that the privileges of the Regulars should henceforth be considered in any decision and judgment, even in matters of conscience, and that this should be held to be so, whether based on the Council of Trent, or on Apostolic Decrees and Constitutions, or on other legitimate grounds. However, we believe that the Regulars will find it difficult to

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demonstrate from these sources that they are not bound by the prohibition of books issued by the Bishops. Indeed, neither Pope Pius IX in the aforementioned letter *Inter multiplices*, nor the Sacred Congregation of the Index in the decree of the year 1895, nor Leo XIII in the aforementioned § 26 of the Constitution *Officiorum*, seem to recognize such a privilege for the Regulars; or, alternatively, they must be considered to have never granted it, or to have revoked it; or, finally, it must be said that the two most recent Pontiffs have revoked it. Finally, the esteemed opponent distorts our probable opinion when he writes on page 52: "However, we readily concede the probability of the contrary opinion, both on account of external authority, and on account of the argument derived from that apostolic delegation." But on what basis does he claim this probability? For: The Regulars enjoy the privilege of exemption from the jurisdiction of the Bishop; but this privilege includes also exemption from the reading of books which they themselves have prohibited. Therefore, the Regulars, being exempt, are not bound by the prohibition of books issued by the Bishops. If this is the minor premise, then the conclusion will certainly be true; thus, the contrary opinion cannot be probable in any way. Therefore, the esteemed opponent ought to doubt the certainty of the minor premise, in order to be able to concede the probability of our opinion. On the contrary: Regarding jurisdiction, the Bishop has no power over the Regulars except what is expressly granted to him by law. This proposition is established by the esteemed opponent himself, and may be considered the major premise of a syllogism. We are permitted to add the minor premise: but, in law, the power to prescribe books is granted to the Bishops, to which the exempt Regulars are subject; it is granted so that the Regulars are subject to the Bishops regarding the censures which they have promulgated; and no one denies that they can prohibit the reading of books under censure; it is granted so that the Regulars are subject to the Bishops in matters of faith, and it is certain that they can prohibit books for reasons of faith, whose dogmas are impugned; it is granted so that even someone instructed with the apostolic authority to prohibit certain books, cannot read books prohibited by the Bishops, unless it is specifically granted. Therefore.

[*Latin ed. p. 340*]

340 OF JOSEPH PENNACCHI, ADDITIONS FOR A COMPREHENSIVE WORK: Let the readers infer from these things, and determine: whether our opinion is merely probable; or whether it is more probable, or certain. CHAPTER V. ON CERTAIN BOOKS OF SPECIAL IMPORTANCE. Commenting on the words of the eleventh paragraph: "Books are condemned in which the Church and its worship are detracted," we have considered that, in this place, the worship of the Church should be understood as that reverence and submission which each, at least, faithful person owes to the Catholic Church. Comment, page 89. Nothing prevents this from

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being taken to mean the totality of sacred rites which are employed in the Catholic Church for various reasons. Finally, let our readers correct what we have written on page 117, note c: N. Dechamps was later made Cardinal by the Most Holy Roman Church. Indeed, we were deceived by the identity of the name; but the author of the cited work is N. Dechamps, of the Society of Jesus. We offer our most sincere thanks to the Reverend Wermeérsch, who warned us of such an error.

[*Latin ed. p. 341*]

341 CONSTITUTION FROM THE APOSTOLIC HOLY FATHER, LEO XIII, BY DIVINE PROVIDENCE, POPE, CONCERNING RELIGIOUS INSTITUTES WHICH PROFESS SIMPLE VOWS. LEO, BISHOP, SERVANT OF THE SERVANTS OF GOD, FOR THE PERPETUAL REMEMBRANCE OF THIS MATTER. Founded by Christ, the Church possesses a divine power and fecundity, so that, as in times past, it has brought forth numerous families of both sexes, which, bound by the sacred bond of simple vows, strive to dedicate themselves to holy works of religion and mercy. These, indeed, urged by the charity of Christ, having surpassed the hardships of a particular city or diocese, and having acquired, through the force of law and common governance, a certain form of association, are increasingly spread abroad. There are two reasons for this: some, having only received the approval of the Bishops, are therefore called diocesan; others, concerning which the judgment of the Roman Pontiff has intervened, either because He has recognized their laws and statutes, or because He has furthermore granted them commendation or approval. It is necessary to determine what rights the Bishops ought to have concerning these two classes of religious families, and what, in turn, are the duties of those Bishops towards them, which seem to remain uncertain and controversial. Indeed, with regard to the diocesan associations, the matter is not so difficult to resolve; for they are established and governed by the authority of the sacred pastors. But a more serious question arises concerning those which have been increased by the approval of the Apostolic See. For, since they are propagated in many dioceses, and everywhere enjoy the same rights and the same governance, it is necessary for the Bishops to admit a certain moderation and to establish certain limits. The extent to which these limits ought to pertain can be gathered from the very reason for the Apostolic See's customary procedure in approving such associations, namely, that a certain Congregation is approved as a pious Society of simple vows, under the governance of a General Moderator, preserving the jurisdiction of the Ordinaries, according to the form of the sacred canons and the Apostles.

[*Latin ed. p. 342*]

542 APOSTOLIC CONSTITUTION regarding these constitutions. — In-

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deed, it becomes clear from this that such associations cannot be considered part of the diocesan structure, nor can they be subject to the bishops, except within the boundaries of each diocese, provided that the supreme Moderator maintains his administration and governance. Therefore, it is forbidden for the superiors of these associations to infringe upon the rights and authority of the bishops; likewise, the bishops are prohibited from claiming any authority over the superiors themselves. Otherwise, if this were to occur, so many moderators would be added to these congregations as there are bishops, within whose dioceses the members of these congregations reside; and thus, the unity of administration and governance would be undermined. — It is necessary that the authority of the superiors of the congregations and the bishops be harmonious and unanimous; therefore, it is necessary for each to recognize and safeguard the rights of the other. In order that this may be fully and permanently accomplished, and so that the power of the sacred pastors, which We, as is fitting, always desire to be protected from any harm, may suffer no detriment in any way, the Sacred Council, after deliberation, has deemed it necessary for the bishops and superiors of religious orders to issue two sets of regulations; one concerning associations which have not yet obtained the commendation or approval of the Apostolic See, and the other concerning those associations of which the Apostolic See has recognized or approved the statutes or foundation. The first set of regulations contains the following: I. Bishops shall not admit any newly formed association into the diocese until they have learned of its statutes and regulations, and have also approved them; provided that they do not contradict the faith, honesty of morals, or the sacred canons and decrees of the pontiffs, and that they are suitable for the purpose stated in their statutes. II. No new association shall be lawfully established without the consent and approval of the bishop. The bishop, however, shall not grant permission for the founding of an association unless, after a diligent inquiry, it is determined what kind of people are involved: whether they are of sound mind and judgment, whether they are endowed with prudence, and whether they are guided primarily by a desire for the glory of God and for the salvation of themselves and others. III. Bishops, insofar as possible, should rather add to one of the already approved associations, which has a similar program of action, than to found or approve a new association of any kind. — Almost none, unless perhaps in the case of missionary societies,

[*Latin ed. p. 343*]

I. In three hundred and forty-three regions, associations shall be approved, which, with a certain and proper purpose not abandoned, encompass all works of piety and beneficence, even if completely distinct from one another. Bishops shall not approve any association unless it possesses sufficient resources to provide for the necessary sustenance of

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its members.

II. Associations that are maintained by stipends, as well as female families who attend to the sick, in their own homes, day and night, are to be examined with the utmost care, and indeed with difficulty.

III. However, if any new female association aims to open infirmaries in its houses, where men and women are received promiscuously; or similar houses to receive priests who are cared for and assisted by the Sisters; such proposals shall not be approved by the Bishops unless mature and rigorous deliberation has been employed.

IV. Furthermore, Bishops shall not permit religious houses where lodging and sustenance are provided to those, men or women, who arrive from afar, at a set price.

V. Any diocesan association shall not extend beyond other dioceses, unless with the consent of both Bishops, both of the place from which it departs and of the place to which it wishes to migrate.

VI. If a diocesan association happens to spread to other dioceses, nothing shall be permitted to be changed in its nature and laws, unless with the consent of the individual Bishops in whose dioceses it has a house.

VII. Once approved associations shall not be dissolved, except for grave reasons, and with the consent of the Bishops within whose jurisdiction they are. However, individual houses are permitted to be suppressed by the Bishops in their own respective dioceses.

VIII. The Bishop shall be informed individually concerning girls who request to enter religious life, as well as those who, having completed their probation, are about to make their vows. It shall be his duty to examine them and, if nothing obstructs, to admit them.

IX. The Bishop has the power to dismiss students of diocesan associations from their vows, both perpetual and temporary, granting them a dispensation (at least by his own authority) for the perpetual observance of chastity. However, care must be taken that the rights of others are not violated by such a dispensation; it would be violated if it were done without the knowledge of the moderators, and justly against their will.

X. Superiors, according to the law of the constitutions, are elected by the Sisters. However, the Bishop, either personally or through a delegate, shall hold elections.

[*Latin ed. p. 344*]

344. The APOSTOLIC CONSTITUTION precedes: after the election has been completed, it is the duty of the Bishop to confirm or to annul it, according to the dictates of his conscience. X. The Bishop has the right to visit the houses of any diocesan sodality, and also to inquire into matters of piety, discipline, and financial affairs. XI. It is the duty of the Bishops to appoint priests to administer the sacraments, to hear confessions, and to

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preach, both for diocesan sodalities and for others; this is explained in the following section (no. 8). Another section of the regulations, concerning sodalities which the Apostolic See has recognized or has commended or approved, states the following: I. It is the duty of the Presidents of the sodalities to co-opt members, and to admit them to the religious habit or to take vows; however, the Bishop has the faculty, granted by the Council of Trent (1), to examine women, both before they receive the habit and before they make their profession, as is fitting. Similarly, it is the duty of the Presidents to admit individual families, novices, and professed members, while observing whatever is required by the laws of the institute and by pontifical decrees. — The Convents or Chapters, and the governing bodies, have the right to assign duties and responsibilities, both those pertaining to the entire sodality and those carried out in individual houses. In the Convents of women's sodalities, the Bishop of the diocese in which they are located presides, either in person or through another, as a delegate of the Apostolic See, in the assignment of duties. II. To dispense from vows, whether they are temporary or perpetual, belongs solely to the Roman Pontiff. To change the constitutions, especially those which have been approved by the Apostolic See, no Bishop has the right. Also, it is not permitted for the Bishops to alter or modify the administration, whether of the entire sodality or of individual houses, or the norms of the constitutions. III. It is the right of the Bishops, in each of their dioceses, to permit or to prohibit the founding of new houses of sodalities, and also to allow new chapels to be established by them, or to open oratories, whether private or public or semi-public, or to establish religious services in private homes.

(1) Session XX, chapter XVII, concerning Regular Canons and Nuns.

[*Latin ed. p. 345*]

CONSTITUTIONAL APOSTOLIC. 345. The manner in which these matters are presented should be made manifest for the veneration of the faithful. Likewise, it is the duty of the Bishops to regulate the solemnities and supplications which are public. I. Houses of such sodalities, if they make use of a diocesan closure, retain the full rights of the Bishops, which are granted by pontifical laws concerning this matter. However, if any closure, as they say, is partial, the Bishops must see to it that it is properly observed, and that whatever vices may creep in are restrained. V. Members, whether male or female, of these sodalities, with regard to the internal forum, are subject to the authority of the Bishops. In the external forum, they are likewise subject to that which pertains to censures, reservations of cases, relaxation of vows which are not reserved to the Supreme Pontiff, the institution of public prayers, dispensations, and other concessions which the pastors of the sacred rites can grant to their faithful. VI. If anyone desires to be promoted to the sacred orders, the Bishop, even if they reside in the diocese, must take care that they are admitted, unless these conditions are met: that

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they are presented by their respective superiors; that those things which are prescribed by sacred law concerning dismissal letters or testimonials are properly fulfilled; that they do not lack the title of sacred ordination, or, at the very least, that they are legitimately exempted from it; that they have devoted themselves to the study of theology, according to the decree *Auctis admodum*, given on November 4, 1892. VII. In sodalities which live by alms, the rights which the Bishops possess are those established by the decree *Singulare quidem*, promulgated by the Sacred Council of Bishops and Religious Orders on March 27, 1896. VIII. In all matters pertaining to spiritual affairs, the sodalities are subject to the Bishops of the dioceses in which they are located. Therefore, the Bishops shall designate and approve the priests for these sodalities. If the sodalities are composed of women, the Bishop shall also designate priests from confessions, both ordinary and extraordinary, according to the constitution *Pastoralis curae*, issued by Our predecessor, Benedict XIV; and according to the decree *Quemadmodum*, given by the Sacred Council of Bishops and Religious Orders on December 17, 1890; this decree also pertains to associations of men who are not at all initiated into the sacred orders. IX. The administration of the goods, by which each sodality possesses, is entrusted to the Supreme Moderator or the highest-ranking Bishop.

[*Latin ed. p. 346*]

346. The Constitutions and regulations should be such that the income of individual families is administered by their respective heads, according to the laws of each institution. The Bishop cannot demand any accounting from them. Those who, by legal decree, have assigned certain properties to a particular house for the worship of God or for charitable purposes, shall have their administration overseen by the head of the house, but shall report to the Bishop, and shall be entirely subject to him; so that neither the Prefect nor the Antistite of any sodality may conceal anything from the Bishop concerning these goods, divert them, or turn them to other uses. Therefore, the Bishop shall examine the accounts of receipts and expenditures of such goods whenever he deems it necessary; and he shall take care that the funds are not diminished, and that the revenues are not misspent.

X. Where institutions, in addition to their own affairs, are entrusted with the care of buildings such as hospitals, orphanages, infirmaries, schools, and shelters for the education of children, the Episcopal authority shall oversee all of these matters with regard to the teachings of religion, the integrity of morals, the practice of piety, and the administration of the sacraments, while respecting the privileges that have been granted to such colleges, schools, or institutions by the Apostolic See.

XI. In the houses of any sodality where members profess simple vows, the Bishops of each diocese have the right to visit the churches, chapels, oratories, confessionals, and other places, and to make appropriate

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regulations and commands concerning them. In the sodalities of priests, the presidents shall be informed about matters of conscience and discipline, as well as about financial affairs. In the case of women's associations, as well as of men who are not ordained to the priesthood, the Bishop shall inquire whether discipline is maintained according to the established rules, whether anything has detracted from sound doctrine or moral integrity, whether there has been any transgression of the enclosure, and whether the sacraments are received with due frequency and devotion. If the Bishop should, perchance, commit any offense, he shall not immediately pronounce judgment, but shall advise the superiors to take appropriate measures; if they neglect to do so, he himself shall intervene. If, however, matters of greater importance arise that do not admit of delay, he shall decide immediately; and the decree shall be submitted to the Sacred Council, to be considered by the Bishops and religious orders. The Bishop, especially during his visitations, shall exercise the rights that we have mentioned with regard to schools, orphanages, and other institutions mentioned above.

XII. With regard to financial matters, the same applies to women's sodalities and to men who are not ordained to the priesthood.

[*Latin ed. p. 347*]

APOSTOLIC CONSTITUTION. 347 The Bishop shall not be informed except concerning the administration of funds or legacies, which are dedicated to sacred purposes, or for assisting the inhabitants of the place or diocese. Regarding those matters which we have hitherto decreed and sanctioned, we do not intend to revoke in any way the faculties or privileges, whether those granted by Our own decree or by that of any other See of the Apostolic See, or those confirmed by memorable or secular custom, nor even those contained in the laws of any Society approved by the Roman Pontiff. We declare that these present letters, and everything contained therein, shall never, at any time, be deemed to be vitiated by any deceit or fraud, or by any other defect, but shall always be valid and remain in full force, and that they must be inviolably observed by all, of whatever rank or standing, both in judgment and outside of it; declaring also that anything to the contrary, attempted by anyone, with any authority or pretext, knowingly or unknowingly, shall be declared void and of no effect, notwithstanding anything to the contrary. We wish that copies of these letters, even printed ones, shall have the same validity as if they were written by hand and signed by the Notary, and sealed with the seal of a man of ecclesiastical dignity, as established by law. Given at Rome, at Saint Peter's, in the year of the Incarnation of the Lord one thousand nine hundred and thirty-seven, on the sixth day before the Kalends of December, in the twenty-third year of Our Pontificate. C. CARD. ALOISI-MASELLA, Pro-Datary. A. CARD. MACCHI, VISA DE CURIA. I. D E AQUILA E VICECOMITIBUS. Place)$¡

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Plumbi. Registered in the Secret Archives of Briefs. I. CUGNONIUS.

[*Latin ed. p. 348*]

348 Letters from the Most Holy Pope Leo XIII to the Abbot, Vicar General of the Monastery of Olinda, of the Benedictine Congregation in Brazil. Beloved Son, Greetings and Apostolic Benediction. We have already, both verbally and in writing, and especially in the Letters "Ex quo primum" dated April 25, 1895, expressed our joy regarding the successful beginning of the restoration of the Benedictly Order in Brazil, and we have readily commended the willingness with which you, beloved son, and the other members of the Beuron Congregation, have undertaken this work. We were even more pleased when, as you recently reported, we learned that your efforts have been so successful that, within so short a period of years, three monasteries, namely Olinda, Bahia, and Paulianum, have been restored to regular discipline; a new monastery has been founded in the state of Ceará, established from the ground up for the health of the young monks due to the favorable air; another house has been erected in Belgium for the purpose of acquiring workers and resources for the Brazilian mission; and finally, a sufficiently large group, both of novices and priests, has been sent to the ancient monasteries of the Brazilian Congregation. Therefore, we gladly congratulate you on all that has been accomplished thus far, both you, beloved son, and the Abbot General of the Brazilian Congregation, and also the religious of the Beuron Congregation. Although We are not unaware of the many things that still remain to be accomplished in the prosecution of this excellent work, we are confident that you will pursue the assigned task with the strength and zeal that you are accustomed to, and that you will successfully complete it. To that end, we encourage the charity of both the Abbots of the Beuron Congregation and the faithful, that the former may provide you with suitable helpers, and that the latter may generously contribute the necessary funds for the work. Finally, as a testament to Our particular benevolence, We impart to the Abbot General, to all the members of the Brazilian Congregation, and to you, Our Apostolic Benediction. Given at Rome, near St. Peter's, on this nineteenth day of December, in the year 1900, the twenty-third year of Our Pontificate. LEO XIII, POPE.

[*Latin ed. p. 349*]

549 Letters from His Holiness Pope Leo, by which the universal Jubilee celebrated in the city is extended to the entire Catholic world in the year of Our Lord nineteen hundred. LEO, BISHOP, SERVANT OF THE SERVANTS OF GOD, to all the faithful Christians who shall read these letters, greetings and the apostolic blessing. The sacred time, which we concluded yesterday with solemn ceremonies, has been pleasing to Us, and will be a welcome memory. For what the Church desired, and what it sought above

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all, was that the restored celebration, after seventy-five years, might profitably move the hearts of men; and, with God's favor, we seem to have achieved this. For not a few, but hundreds of thousands, from all ranks of society, have eagerly sought to avail themselves of the extraordinary opportunity to obtain the sacred indulgence. And we do not doubt that the minds of many have been cleansed by salutary penance and renewed in Christian virtues; and for this reason, we believe that a certain new strength of faith and piety has flowed from this source and from this head of the Catholic name. Indeed, as Our predecessors have been accustomed to do in similar cases, We now intend to extend the scope of apostolic charity, and to offer a greater opportunity for the attainment of heavenly blessings. For the treasure of the sacred indulgence, which was granted to Us and which was available only in Rome for the past year, We now wish to make available for half a year to the entire Catholic world. We believe that this will be beneficial for restoring Christian morals, for uniting wills more closely with the Apostolic See, and for other good things which We have diligently pursued since We proclaimed the first great Jubilee. This will also pertain to the proper dedication of the beginning of the new century; for We see no better way to begin a century than if men were to draw greater benefit from the merits of the Redemption of Christ. We are not at all doubtful that all the children of the Church will receive this new safeguard with the same spirit with which We offer it. We trust in Our venerable brothers, the bishops, and in the entire clergy, for the exploration of...

[*Latin ed. p. 350*]

350 We grant, as is fitting, our diligence and care, through these documents, so that the desired common benefits may be fully realized. Therefore, by the authority of Almighty God, of the blessed Apostles Peter and Paul, and Our own, We extend the great Jubilee, which was celebrated in this Holy City, to the entire Catholic world through these documents, and We prolong it for a period of six months, and We wish it to be considered as extended and prolonged. Therefore, to all the faithful of both sexes, wherever they may be in every place and part of the world, even to those who perhaps came to the Holy City within the past year, and there or elsewhere in any way obtained this same Jubilee granted by Us, We grant and bestow, with all our heart, the fullest indulgence, remission, and forgiveness of their sins, provided that, within six months from the day of publication of these documents in each diocese, they visit the cathedral church in the episcopal city, and the largest church in other places within the diocese, and three other churches, either in the same city or in others, designated by the aforementioned Ordinaries, either by themselves, or through their officials, or by parish priests or vicars forane, at least once during fifteen consecutive or interpolated days, whether natural or ecclesiastical, namely from the first Vespers of one day to the twilight of the complete following

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day, and with true repentance and confession, and having received the Holy Communion, they offer devout prayers to God for the exaltation of the Church, the eradication of heresies, the concord of Catholic princes, and the salvation of the Christian people. However, in places where the lack of four churches is verified, We grant to the same Ordinaries the faculty to designate a smaller number of churches, or even one, if only one church exists, in which or in which the faithful of other churches may fulfill their visits, visiting them or it repeatedly and distinctly, on the same natural or ecclesiastical day, provided that the total number of visits is sixty, and they are distributed over fifteen consecutive or interpolated days. Furthermore, considering the particular circumstances in which certain persons may find themselves, We decree the following: I. Those who are traveling and at sea, if after the aforementioned six months they have returned to their homes, or to some other place, having completed what is prescribed and having made the aforementioned visits, they may...

[*Latin ed. p. 351*]

LETTERS 551: Those who frequent the Cathedral Church, or the major or parish church of their domicile or station, may obtain the same Indulgence.

II. We grant to the Ordinaries of places the faculty of dispensing from the prescribed visitations of Nuns, Virgins, and other girls and women living within the cloister of monasteries or in other pious houses and communities; also of Anchoresses and Hermits, or any other persons existing in prison or captivity, or detained by illness or other impediment, who are unable to perform the customary visitations; and to all and each of these, in place of the visitations, we grant the faculty of performing other pious works, either by themselves or through their Regular Superiors or confessors, even outside of sacramental Confession; similarly, we grant the faculty of dispensing boys who have not yet been admitted to their First Communion, and of prescribing other pious works for them in place of the sacramental Communion; but to Chapters, Congregations, both secular and regular, Sodalities, Confraternities, Universities or colleges, and also to the faithful who, with their own parish priest, or another priest appointed by him, visit the parish churches in procession, we grant the faculty of reducing the number of such visitations.

Concerning the Confessor of the Jubilee, we grant the following:

I. Nuns and their novices may choose any confessor approved by the Ordinary of the place for the purpose of hearing the confessions of the nuns.

II. All other faithful of both sexes, both lay and clerical, secular and of any Order and Institute, even those specially named, may choose any priest as their confessor, whether secular or of any Order and Institute, even of a different rule, approved by the Ordinary of the place for hearing the confessions of lay persons; or, if they are Regular, those who wish to choose

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a confessor of their own Order, may choose one approved by the Regular Superior for hearing the confessions of their religious.

III. To the confessor thus approved and chosen for the purpose of obtaining the Jubilee, we grant, on this occasion, the faculty of, within the said six-month period, in the forum of conscience alone, absolving from excommunication, suspension, and other ecclesiastical sentences and censures, whether imposed by law or by any human authority, even by the Ordinaries of places, and by Us and the Apostolic See.

[*Latin ed. p. 352*]

352. Letters [of dispensation] can also be granted in any case, and are especially permitted to be granted to the Supreme Pontiff and to the Apostolic See, with the reservation of form, and those things which, although not explicitly mentioned in a concession, however extensive it may be, are understood to be granted, as well as from all sins and excesses, however grave and enormous, even to those same Ordinaries and to Us and to the Apostolic See, as is fitting, a salutary penance being imposed, and other things which are by law to be imposed. The crime of absolution of a complice is excepted, if it has been committed three times, or more. — Above all, let not heretics who have publicly proclaimed dogmas be absolved, unless, after having abjured their heresy, they have repaired the scandal, as is fitting; nor let those who have acquired ecclesiastical goods or rights without permission be absolved, unless they have restored them or made amends, or have sincerely promised, before the Ordinary or before the Holy See, that they will do so as soon as possible. IV. Furthermore, any vows, even those that have been sworn, and reserved to the Apostolic See (of chastity, of religious life, and obligatory vows that have been accepted from a third party, or in which the damage to a third party is involved, are always excepted, as well as penal vows, which are called preservative against sin, unless the future commutation is judged to be of such a nature that it does not restrain from sin as much as the previous vow), can be changed to other pious and salutary works; and with penitents of this kind, established in the Sacred Orders, a dispensation can be granted in the regulations concerning hidden irregularities for the exercise of those same Orders and for the attainment of superiors, solely for the violation of censures, provided that it has not been brought before the ecclesiastical forum, nor is easily to be brought. V. Likewise, only for the sake of conscience, a dispensation can be granted to those who, knowingly or unknowingly, have already contracted marriage with an impediment of the second and third degrees, or of the third degree alone, or of the third and fourth degrees, or of the fourth degree alone, of consanguinity, or of affinity, even arising from a licit marriage; provided that such an impediment remains hidden. VI. Similarly, only for the sake of conscience, a dispensation can be granted concerning a diriment impediment, hidden, of the first and second degrees, or of the

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first degree alone, or of the second degree alone, of affinity arising from an illicit marriage, in a marriage contracted; and also, provided that there are grave causes and those that are canonically sufficient, for contracting marriage; but in such a way that, if such affinity arises from a union with the mother of the betrothed, or the betrothed, the birth of that child must have preceded the union, and nothing else.

[*Latin ed. p. 353*]

LETTERS 555 V I I. It is permissible to grant a dispensation, within the same jurisdiction, both concerning a marriage already contracted and concerning a marriage to be contracted, regarding the impediment of spiritual consanguinity, as well as regarding a hidden impediment of a crime, provided that neither party is scheming, that is, when only adultery and a promise of marriage given after the death of a spouse are present. VIII. A dispensation may be granted to request the fulfillment of a debt in the case of incestuous affinity arising after marriage. X. It is permissible to grant a dispensation to those who, having been bound by a simple vow of chastity, have entered into marriage, provided that they are warned that they will incur the penalty if they act contrary to that vow outside of the marital act, and that they will remain entirely bound by the same vow if their spouse survives. X. However, we do not wish, by these letters, to grant a dispensation regarding any other irregularity or public or hidden impediment, or any defect or mark, or any other incapacity or disability in any way contracted, nor to grant any faculty regarding the aforementioned dispensations, or regarding remaining in, or being restored to, the previous state, even in foro conscientiae; we do not wish to grant any Confessor the faculty of absolving a party in any dishonest act against the precept of chastity; nor to grant permission to a party to choose a Confessor of this kind to effect the present [decree], as has already been declared in the Constitution of Benedict XIV, which begins with the words "Sacramentum Poenitentiae": nor do we wish to derogate from the aforementioned and other pontifical Constitutions regarding the obligation of denunciations; nor finally, to those who have been excommunicated, suspended, interdicted, or otherwise declared to have incurred sentences and censures by Us and the Apostolic See, or by any Prelate or ecclesiastical Judge, and have been publicly denounced, unless they have satisfied within the aforementioned six months, and have agreed with the parties, where necessary, in any way to support these same letters. Furthermore, if anyone, having set out with the intention of obtaining the benefits of this Jubilee, has been unable to complete the prescribed works and the predetermined number of visitations due to illness, we, desiring to favor their pious and prompt intentions with benignity, wish that those same individuals, truly repentant and having confessed, and having received Holy Communion, may participate in the aforementioned Indulgences and remissions. But if anyone, after

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obtaining absolution from censures, or after the aforementioned commutation of vows or dispensations, commits a serious and sacrilegious...

[*Latin ed. p. 354*]

554. Letters [LITTERAE] which have altered, for a previously required purpose, the aims of the same Jubilee, and other necessary procedures, although for this very reason those involved may scarcely be considered free from the guilt of sin; nevertheless, we decree and declare that such absolutions, modifications, and dispensations, obtained from them with the aforementioned disposition of mind, shall remain in full force. We will and decree that these letters, wherever they are publicly promulgated and demanded for execution, shall have and obtain their full effect, and that all the Christian faithful, remaining in the grace of the Apostolic See, shall fully support them; notwithstanding any general, provincial, or synodal councils, constitutions, ordinances, and general or special reservations concerning absolutions or relaxations, and dispensations, as well as any statutes, laws, customs, and usages, even those strengthened by oath, Apostolic confirmation, or any other means, of any Order, Congregation, or Institution, including privileges, indulgences, and Apostolic letters granted to them, especially those in which it is expressly stipulated that the professors of any Order, Congregation, or Institution are forbidden to confess their sins outside their own religious community; all of which, and each of them, even if a special, specific, explicit, and individual mention of them and their entirety would have to be made for their sufficient derogation, or another suitable form would be required to preserve them, shall be considered as inserted for this purpose, and the forms as meticulously observed; for this occasion and solely for the effect of the foregoing, we fully derogate from them; and notwithstanding any other contrary provisions. We decree that these letters, whether transcribed or copied, even printed, and signed by a public notary and sealed with the seal of a person holding an ecclesiastical office, shall be held by all to be of the same validity as if the original were presented. Therefore, no human being whatsoever may infringe this page of Our extension, exhortation, commission, concession, derogation, decree, and will, or dare to contradict it with reckless audacity. If anyone should presume to attempt this, let him know that he will incur the wrath of Almighty God, and of the blessed Apostles Peter and Paul.

[*Latin ed. p. 355*]

LETTERS 555. Given at Rome, near St. Peter, in the year of the Incarnation of the Lord, nineteen hundred and eighty-seventh, on the eighth day before January, in the twenty-third year of Our Pontificate.

C. CARD. S. ALOISI - MASELLA, Pro-Datary of the Roman Curia.

A. CARD. MACCHI.

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SEEN BY THE CURIA.

I. D. OF AQUILA AND VICARS.

Loco >B Plumbi Reg. in Secret. Brevium.

I. CUGNONIUS.

LETTERS of the Most Holy Pope Leo XIII to the Most Reverend Archbishop of Paris, concerning Religious Congregations in France.

Amidst the consolations that the Holy Year affords Us through the pious eagerness of pilgrims who have flocked to Rome from all parts of the world, We have experienced a profound sadness in learning of the dangers that threaten Religious Congregations in France.

Through a multitude of misunderstandings and prejudices, it has come to be thought that it would be necessary for the good of the State to restrict their freedom, and perhaps even to proceed more harshly against them. The duty of Our supreme ministry and the deep affection that We bear for France compel Us to speak to you about this grave and important matter, in the hope that, better informed, just and impartial men will return to more equitable counsels.

At the same time, We address Ourselves to Our venerable brothers, your colleagues of the French episcopate. In the name of the grave concerns that you share with Us, it belongs to you to dispel the prejudices that you observe on the spot, and to prevent, as far as it is in your power, irreparable misfortunes for the Church and for France.

The Religious Orders, each one knows, derive their origin and their reason for being from those sublime evangelical counsels, which Our divine Redeemer addressed for all the course of the ages.

[*Latin ed. p. 356*]

356 Letters to those who desire to attain Christian perfection: These are strong and generous souls who, through prayer and contemplation, through holy austerities, and through the practice of certain rules, strive to ascend to the highest summits of spiritual life. Born under the influence of the Church, whose authority sanctions their governance and discipline, religious orders constitute a chosen portion of the flock of Jesus Christ. According to the words of Saint Cyprian, they are ”the honor and the adornment of spiritual grace” (1), while at the same time they attest to the holy fruitfulness of the Church. Their promises, freely and spontaneously made, after being carefully considered during the novitiate, have been regarded and respected in all ages as sacred things, sources of the rarest virtues. The purpose of these commitments is twofold: first, to elevate those who make them to a higher degree of perfection; and second, to prepare

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them, by purifying and strengthening their souls, for an external ministry that is exercised for the eternal salvation of their neighbor and for the relief of the many miseries of humanity. Thus, working under the supreme direction of the Apostolic See to realize the ideal of perfection traced by Our Lord, and living under rules that are absolutely in no way contrary to any form of civil government, religious institutes greatly contribute to the mission of the Church, which essentially consists in sanctifying souls and doing good to humanity. Therefore, wherever the Church has enjoyed its freedom, wherever the natural right of every citizen to choose the kind of life he deems most conducive to his tastes and moral perfection has been respected, there also religious orders have arisen as a spontaneous product of the Catholic soil, and bishops have rightly regarded them as valuable auxiliaries of the holy ministry and Christian charity. But it is not only to the Church that religious orders have rendered immense services from their very origin: it is to civil society itself. They have earned the merit of preaching virtue to the masses through the apostolate of example as much as through the apostolate of the word, of forming and beautifying minds through the teaching of sacred and secular sciences, and of even increasing virtue itself (1) *De discipl. et habitu "Virginum," cap. n.

[*Latin ed. p. 357*]

Letters 557: The brilliant and enduring works are the heritage of the fine arts. While their doctors illuminated the Universities with the depth and breadth of their knowledge, while their monasteries became the refuge of divine and human knowledge, and, in the shipwreck of civilization, saved from certain ruin the masterpieces of ancient wisdom, often other religious men ventured into inhospitable regions, marshes, or impenetrable forests, and there, drying up, clearing, braving all hardships and dangers, cultivating, with the sweat of their brow, souls as well as the land, they founded around their monasteries and in the shadow of the cross centers of population which became flourishing towns or cities, governed with gentleness, where agriculture and industry began to flourish. When the small number of priests or the needs of the times required it, legions of apostles emerged from the cloisters, eminent for their holiness and doctrine, who, valiantly contributing to the bishops, exercised the most beneficial influence on society by appeasing discord, stifling hatred, bringing peoples back to a sense of duty, and restoring to honor the principles of Christian religion and civilization. Such are, briefly indicated, the merits of the religious Orders in the past. Impartial history has recorded them, and it is superfluous to dwell upon them at greater length. Neither their activity, nor their zeal, nor their love for their neighbor have diminished in these days. The good they accomplish strikes the eyes of all, and their virtues shine with a brilliance that no accusation, no attack, has been able to tarnish. In this noble career, in which religious Congregations engage in a multitude of beneficial activ-

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ities, those of France, 'as We declare with joy once more,' occupy a place of honor. Some, dedicated to education, instill in the young, along with instruction, the principles of religion, virtue, and duty, upon which the public tranquility and the prosperity of the states essentially depend. Others, consecrated to the various works of charity, provide effective assistance to all physical and moral miseries in the countless asylums, where they care for the sick, the infirm, the elderly, orphans, the mentally ill, and the incurable.

[*Latin ed. p. 358*]

358 Letters, without ever any perilous, repugnant, and ungrateful task deterring their courage or diminishing their zeal. These merits, recognized on more than one occasion by the least suspect individuals, and honored on more than one occasion by public rewards, make these Congregations the glory of the entire Church, and the particular and brilliant glory of France, which they have always nobly served and which they love with a patriotism capable, as has been seen many times, of joyfully facing death. It is evident that the disappearance of these champions of Christian charity would cause irreparable damage to the country. By drying up such an abundant source of voluntary aid, it would notably increase public misery, and, at the same time, would cease a eloquent preaching of fraternity and concord. In a society where so many elements of disturbance, so many hatreds, are fermenting, great examples of self-sacrifice, love, and disinterestedness are needed. And what is more fitting to elevate and pacify souls than the sight of these men and women who, sacrificing a happy, distinguished, and often illustrious position, voluntarily become the brothers and sisters of the children of the people, practicing true equality through unwavering devotion to the destitute, the abandoned, and the suffering? So admirable is the activity of the French Congregations that it has not been able to remain confined to national borders, and it has gone to spread the Gospel to the farthest reaches of the world, and, along with the Gospel, the name, the language, and the prestige of France. Voluntary exiles, the French Missionaries go forth, through the storms of the Ocean and the sands of the desert, to seek souls to convert in distant and often unexplored regions. They are seen establishing themselves among savage peoples to civilize them by teaching them the elements of Christianity, the love of God and neighbor, work, respect for the weak, and good morals; and they thus dedicate themselves, without expecting any earthly reward, until a death often hastened by fatigue, the climate, or the executioner's blade. Respectful of the laws, and subject to established authorities, they bring with them, wherever they go, only civilization and peace; they have no ambition other than to enlighten the unfortunate to whom they address themselves, and to lead them to Christian morality and to a sense of their

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dignity as men. It is not rare, moreover.

[*Latin ed. p. 359*]

359. Furthermore, they make important contributions to science, assisting in research conducted in its various fields: the study of the varieties of races within the human species, languages, history, nature, and the products of the soil, and other matters of this kind. It is precisely upon the laborious, patient, and tireless activity of these admirable Missionaries that the protectorate of France is primarily founded, a protectorate which successive governments of this country have all been eager to preserve, and which We Ourselves have publicly affirmed. Moreover, the unwavering devotion of French Missionaries to their homeland, the eminent services they render to it, and the great influence they secure for it, particularly in the East, are facts recognized by men of very diverse opinions, and which were recently proclaimed with solemnity by the most authoritative voices. In these circumstances, it would not only be responding to so many services with inexplicable ingratitude, but it would, obviously, at the same time renounce the benefits that derive from them, to deprive religious Congregations within the country of that freedom and that peace which alone can ensure the recruitment of their Members and the long and laborious work of their formation. Other nations have had this painful experience. After having restricted within the country the expansion of religious Congregations and gradually stifled their vitality, they have seen, externally, their influence and prestige decline proportionally, for it is impossible to demand fruit from a tree whose roots have been cut. It is also easy to see that all the great interests involved in this matter would be seriously compromised, even in the case where the Congregations of Missionaries were spared in order to strike at others; for, upon careful consideration, the existence and activity of the one are linked to the existence and activity of the others. Indeed, the vocation of the religious Missionary springs forth and develops under the word of the religious preacher, under the pious guidance of the religious teacher, and even under the supernatural influence of the religious contemplative. Moreover, one can imagine the difficult situation that would be created for the Missionaries, and the diminution that their authority and prestige would certainly suffer, as soon as the peoples they evangelize learn that the religious Congregations,

[*Latin ed. p. 360*]

500. The Letters [referring to religious congregations] far from finding protection and respect in their own country, are treated with hostility and rigor. But, raising the question further, We must observe that religious congregations, as We have said above, represent the public practice of Christian perfection; and, if it is certain that there are and will always be in the Church souls of the highest caliber who aspire to this under the influence

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of grace, it would be unjust to obstruct their designs. It would be an attack on the very freedom of the Church, which is guaranteed in France by a solemn pact: for everything that prevents it from leading souls to perfection, harms the free exercise of its divine mission. To strike at religious orders would be to deprive the Church of devoted collaborators: first within, where they are the necessary auxiliaries of the episcopate and the clergy in exercising the holy ministry and the function of Catholic instruction, that instruction which the Church has the right and the duty to impart and which is demanded by the conscience of the faithful; and then without, where the general interests of the Apostolate are represented primarily by French congregations, and where they constitute its principal force in all parts of the world. The blow that would strike them would therefore have repercussions everywhere, and the Holy See, bound by divine mandate to provide for the spread of the Gospel, would find itself in the necessity of not opposing the fact that the vacancies left by French missionaries be filled by missionaries of other nationalities. Finally, We must observe that striking at religious congregations would be to move away, to their detriment, from those democratic principles of liberty and equality which currently form the basis of constitutional law in France and which guarantee the individual and collective freedom of all citizens, when their actions and their way of life have an honest purpose which does not infringe upon the rights and legitimate interests of anyone. No, in a state of such advanced civilization as France, We will not suppose that there is no protection or respect for a class of honest, peaceful, and very devoted citizens, who, possessing all the rights and fulfilling all the duties of their compatriots, propose nothing but to work for their own perfection and for the good of their neighbor, without asking for anything more than freedom! The measures...

[*Latin ed. p. 361*]

LETTERS 561 against them would appear all the more unjust and odious, since, at the same time, societies of a completely different nature are treated in a very different manner. We are not unaware that, in order to justify these harsh measures, some repeat that religious congregations encroach upon the jurisdiction of bishops and infringe upon the rights of the secular clergy. This assertion cannot be sustained, if one wishes to refer to the wise laws promulgated by the Church on this matter, which We have recently sought to recall. In perfect harmony with the dispositions and the spirit of the Council of Trent, while they regulate, on the one hand, the conditions of existence of those dedicated to the practice of the evangelical counsels and to the apostolate, on the other hand, they respect, as is fitting, the authority of the bishops in their respective dioceses. While safeguarding the dependence due to the head of the Church, they do not fail, in many cases, to attribute to the bishops, through Apostolic delegation, the supreme authority over the congregations. As for portraying the French episcopate and

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clergy as being disposed to favorably receive the ostracism with which the religious congregations are to be struck, this is an insult that the bishops and priests can only reject with all the energy of their priestly souls! There is no need to give more importance to the other reproach made against the religious congregations, namely, that they possess too much wealth. Even if the value attributed to their properties is not exaggerated, it cannot be denied that they possess them honestly and legally, and that, therefore, to deprive them of them would be to violate the right of property. It must also be considered that they do not possess these things for personal interest and for the well-being of the individuals who compose them, but for works of religion, charity, and beneficence, which benefit the French nation, both within and outside its borders, where they enhance its prestige by contributing to the civilizing mission entrusted to it by Providence. Passing over other considerations made regarding the religious congregations, We limit Ourselves to this important observation: France maintains friendly relations with the Holy See, based on a solemn treaty. Therefore, if the inconveniences indicated have, in some respect, some—

[*Latin ed. p. 362*]

5G2 Letters: In reality, the path is now open to bring these matters to the attention of the Holy See, which is prepared to examine them seriously and, if necessary, to apply appropriate remedies. However, we wish to rely on the equitable impartiality of those men who govern the destiny of France, and on the uprightness and good sense that characterize the French people. We are confident that they will not wish to lose the precious moral and social heritage represented by the religious congregations; that they will not, by infringing upon the common liberty through exceptional laws, wound the sentiments of the French Catholics, and aggravate the internal discord of the country, to its great detriment. A nation is truly great and strong only when, in the respect for the rights of all and in the tranquility of consciences, wills are closely united to contribute to the common good. Since the beginning of Our pontificate, We have spared no effort to realize in France this work of pacification, which would have brought it incalculable advantages, not only in the religious order, but also in the civil and political order. We have not shied away from difficulties; We have not ceased to give France special proofs of deference, solicitude, and love, always hoping that it would respond as befits a great and generous nation. We would experience extreme sorrow if, at the close of Our life, We were to find Our hopes disappointed, the reward of Our paternal concerns denied, and We were forced to witness, in the country that We love, passions and factions struggling with greater intensity, without being able to measure how far their excesses would go, or to avert misfortunes that We have done everything to prevent, and for which We decline, in advance, all responsibility. In any case, the task that is now incumbent upon the French bishops

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is to work, in perfect harmony of views and action, to enlighten minds in order to safeguard the rights and interests of the religious congregations, which We love with all Our paternal heart, and whose existence, freedom, and prosperity are important to the Catholic Church, to France, and to humanity. May the Lord grant Our fervent wishes and crown the efforts that We have been making for a long time for this noble cause! And, as a pledge of Our benevolence,

[*Latin ed. p. 363*]

LETTERS 363 and concerning divine favors, We grant you, beloved Son, to you, to the entire episcopate, to the entire clergy, and to the entire people of France, the Apostolic Blessing. Given at Rome, near Saint Peter's, on the 23rd of December of the year 1900, in the twenty-third year of Our Pontificate. LEO XIII, Pope.

FROM THE HOLY CONGREGATION FOR THE COUNCIL OF REATINA, OF ULTIMATE WILL, on the 23rd of June, 1900. Through summary petitions. Anthony Alegiani, in the year 1852, at the time of his death, instituted his sons, Alphonsus and Achilles, as his heirs, imposing upon them the obligation of an annual mass endowment. The following is the wording of a portion of the will, concerning which controversy now arises: "I order to my hereinafter mentioned heirs that, in each year, on the day of the commemoration of the Dead, they must have a funeral mass celebrated in that church, and with that expense which they shall deem best, for the benefit of my soul, and that they have another similar mass celebrated, in each year, on the day of the second of October, for the benefit of the soul of my deceased wife, and furthermore that they have celebrated in each month of the year eight sung masses with an alms of twenty baiocchi for the benefit equally of our souls, and one sung mass in each month of the year for the benefit of the soul of Maria Fink-Bomier, my sister-in-law. These monthly masses shall be celebrated by the Reverend Father Peter Dalmann (or another more accurate surname), the current instructor in the pious institution for the converted in this city, should a priest be lacking, or should he be unable to celebrate them.

COMPENDIUM OF THE MATTER.

[*Latin ed. p. 364*]

364 EX. S. C. CONCILII: "I leave it to my heirs to arrange for the celebration [of Masses], wherever and by whomever they deem best." Anniversaries and Masses, according to the testator's will, were always duly performed, until Achilles, one of the designated heirs, passed away, and Alphonsus, his brother, and two sisters succeeded him, each receiving an equal share; and when these latter passed away, they left behind more heirs. Then arose a doubt as to whether the heirs, whether mediate or

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immediate, of the recently deceased Achilles, were obligated to contribute equally to the celebration of Masses. Therefore, Alphonsus Alegiani, as the surviving heir concerning the hereditary goods of his brother Achilles, in his own name and in the name of his co-heirs, sent a petition to the Sacred Congregation, asking: whether the legacy established by the father was temporary or perpetual, so that only the immediate heirs would be bound, or also their successors ad infinitum. "In other words," said the advocate, "the words 'in every year, in each month, and to the heirs mentioned below' should be understood to mean that the testator imposed a strict, lifelong obligation on the two mentioned sons and heirs, Alphonsus and Achilles; or, comprehensively, that it was extended even to the heirs of the aforementioned heirs; and thus transmitted perpetually from heir to heir, even though they were not named by the testator." Furthermore, since today the income from the buildings has greatly diminished, and the taxes imposed by the government are very heavy, the advocate also asks, as a subsidiary request, that at least some reduction in the number of Masses be granted. Finally, the advocate was asked to explain how the hereditary situation stood, both at the time the inheritance was received and today, and he stated: that at the time the inheritance was received, the amounts were 2,760, 1,780, and 840 [units of currency]; but today, for various reasons, they have decreased to 1,630, 628, and 87 [units of currency]. The following questions are raised: 1. Whether, in this case, the legacy should be considered perpetual, so that the heirs of Achilles are obligated to contribute equally to the fulfillment of the aforementioned legacy. - And, if affirmative, or

[*Latin ed. p. 365*]

REATINA, 565, 2°. In this matter, considering that two anniversaries of the funeral have already passed, the remaining obligations of the Masses should either be entirely remitted, or at least reduced to half. Regarding this matter, when consulted, the Vicar of the City expressed his opinion to the Sacred Congregation in the following manner: "Indeed, the aforementioned passage appears to be too obscure. For, while on one hand, the testator used the words 'in every year, in each month of the year,' once, twice, and even four times, nevertheless, not even the slightest trace is found from which it can be deduced that he intended to permanently obligate his heirs. On the other hand, when speaking of monthly Masses, he expressed himself as follows: 'These monthly Masses will be celebrated by the Reverend Father Pietro Dalmann... and if, in his absence, or if he is unable to celebrate, I leave it to my heirs to have them celebrated, wherever and by whomever they deem best.' These words seem to refer more to the present time than to the future; otherwise, he should have said: 'and so it will be in the future,' or something similar. It is not easily conceivable that he acted in this way unknowingly; for, since the will was written by a public Notary, it is unlikely that he did not carefully examine the testa-

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tor's intentions in such a serious matter. Therefore, the testator expressed what he wanted, and he did not express what he did not want." "Thus, the testator's intention was this: to obligate his sons, of whose good will he was aware, to fulfill the obligation of the bequest; while, to the other of his descendants, he tacitly left the matter to their discretion. A perpetual bequest is a very serious obligation, which must be clearly stated, in order to create a certain obligation. Furthermore, whatever the true meaning of the aforementioned clause may be, it is left to the prudent judgment of the Most Reverend Fathers." Regarding the requested reduction of the Masses, he stated: "...in the hypothesis that the obligation of the bequest persists, a reduction of the Masses seems to be deserved. Even more so, because the testator stipulated only 20 baiocchi for the alms for the Masses, while in the present synodal tax, the minimum has risen to 30."

[*Latin ed. p. 366*]

366 FROM THE SACRED CONGREGATION: A concise discussion regarding whether a legacy should be considered perpetual or temporary. And concerning the first doubt, namely, whether a legacy is to be understood as perpetual or temporary, I observe that a legacy is, by its nature, perpetual, unless clear evidence of the testator's expressed will exists to demonstrate or refute the temporality of the legacy. - Thus, the Rota declared in *Romana Legati super Capitalibus Venetiarum*, January 20, 1758, before Canilliac. Indeed, in cases where arguments favoring temporality are present, they seem to be lacking; rather, when dealing with a legacy for Masses, the cause of piety demands that the words be interpreted in the most favorable and comprehensive sense: and that, under the name of the heir, not only the first heir, but also subsequent heirs should benefit, unless the testator's will clearly indicates otherwise; thus, the Rota firmly held in the authoritative decision of *Romana Legatorum*, March 5, 1755, before Caprara. Furthermore, the Doctors state: Mantica (in *de coniecturis*, last volume, book 8, page 2, note 16) says: "In a pious cause, the burden of proof is presumed to be placed upon the one against whom it would otherwise not be presumed." - Amostazo (in *de causis joiis*, book 1, chapter 11, note 13): "Uncertainty vitiates a disposition, even if it is in the last will... therefore, legacies containing uncertainty are void..." and note 14: "However, this rule does not apply to a pious legacy." The same is stated by Tiraquellus in *de privileg*, (privilege 35), Barbosa, book 3, chapter 27, section 45; and the aforementioned Amostazo, book 2, chapter 10, note 8, says: "In case of doubt, a legacy is presumed to be perpetual in a pious cause, not for a single occasion." On this matter, the Sacred Congregation has responded in favor of the perpetuity of legacies in similar questions in *Romana Legati*, January 10, 1733, in Ravenna; November 14 of the same year, in Caesena; in the matter of *Onerum Missarum*, March 10, 1738; and in a certain *Cervien* legacy, the testator had bequeathed: "Furthermore,

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for the sake of a legacy, and in support of the soul of the aforementioned testator, he leaves and commands that from the aforementioned his heir, one..."

[*Latin ed. p. 367*]

In REATINA, in the year 1767, following the death of the usufructuary heir, it was stipulated that four thousand Masses for the repose of the soul of the testator should be celebrated annually. Regarding this matter, there was doubt: "Whether it pertains to perpetuity, or to a temporary duration, etc." On July 30, 1785, despite the aforementioned words used by the testator, the response was affirmative concerning the first part, but negative concerning the second. A TEMPORARY LEGACY SEEMS TO BE INTENDED. However, on the contrary, it must first be noted that in these matters, conjectures and presumptions hold great weight, from which it may be inferred that the testator's will was not sufficiently expressed; and, if, despite these presumptions and conjectures, the testator's will remains doubtful, then only the favor of the pious cause should be adhered to. Therefore, De Luca, in *De Legatis*, Discourse 55, number 2, states that the question appears to be more a matter of fact than of law, not referring to a certain and definite rule applicable to every case, but rather to be decided according to the quality and circumstances of each individual case. Regarding this matter, it must be considered whether the words directly from the testator were addressed to the heir, because if a burden was imposed upon the heir in his own name and appellation, then the favor of the pious cause cannot be invoked, but this method of interpretation operates in such a way that the legacy does not extend beyond the person of the legatee. Concerning this matter, De Luca, in *De Leg.*, Discourse 34, § 7, states: "Where a contrary will, even a presumed and conjectural one, is present, then no consideration should be given to this privilege, which is effective concerning defects relating to formalities, or other matters arising from the subtlety of positive law, but not from a will which it does not supplement, as has been frequently stated under the title concerning testimony." This case is particularly so, especially when the words or the term "the aforementioned heirs" occurs, as De Luca states, ibid., § 3. And more clearly, the Rota, before the Most Eminent, in decree 187, § 9, states: "A certain burden is not considered perpetual when the words 'the aforementioned heirs' are used; thus, in this case, conjectures to the contrary are not valid."

[*Latin ed. p. 368*]

06S EX. S. C. CONCILII: Quod quidem videtur optime convenire cum proposito; si quidem testator solum suos heredes nominavit et locutionibus "mei dicti - mei infrascripti eredi" utitur. Item, ulterius inquirendum est si legatum in determinata ecclesia aut altari fuerit relatum; nam si locus designatione careat, quae, secundum Pitonium, de iure patronatus, centrad.

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34, n. 6, signum perpetuitatis habet, facilius pro personalitate praesumitur. Ad rem, ait Donneili, Commentarii in Digesto de verbis obligantibus, v. 11, pagina 640: "Legatum perpetuum est, cum relinquitur civitati, aut eiusmodi universitati, quae sit perpetua, ut Ecclesia"; alioquin, personale censetur. At in nostro casu, testator locum celebrationis arbitrio heredum reliquit; nam iussit: "Hae missae mensuales a Domino S. Pietro Dalmann celebrabuntur... et si sacerdos deficeret, aut non posset celebrare, liberos do heredibus meis ut eas celebrarent ubi et a quibus melius credebant." Quae observatio testantis de persona certa sacerdotis missas celebrandi; - si sacerdos deficeret, etc. - esset plane absurda si res esset de legato perpetuo, cui satisfactione absque dubio unus idemque sacerdos, expresso nomine, destinari non potuisset. Ulterius, quia in casu agitur de perpetuo onere imponendo, voluntas testantis non praesumitur, sed concludentibus argumentis probari debet; quandoquidem translatitii iuris est ex incerta iussione obligationem certam non sequi. De hac re, ait Amostazo, de Causis piis, I. cit., cap. 11, n. 13: "Incertitudo vitiat dispositionem, etiam si sit in ultima voluntate"; et Menochius, lib. 4, praes. 107, § 9: "Quando incertitudo est in persona, tunc non sumitur stricta interpretatio, ut quod minus est debeatur." Imo, quando agitur de persona testatori dilecta, pergit idem Menochius ibidem, legatum accipit "latam interpretationem." Iamvero, in proposito de hac perpetua obligatione, nullum verbum testator habuit; nullum habetur indicium, ex quo valeant obligari etiam successivi heredes in infinitum. Nec facile putandum est testatorem ignoranter se gessisse; et-

[*Latin ed. p. 369*]

REATINA, 569, indeed, the Vicar of the City stated, "Since the will had been written down by a public Notary, it is not likely that the testator's will in such a serious matter was not carefully considered. Therefore, the testator expressed what he wished, and did not express what he did not wish." Nor are there lacking examples in which the Sacred Congregation [of Rites] has declared a legacy to be temporary. Thus, in a certain Camerino, in the Register of Legacies, on June 12, 1721, Peter Berardi, establishing Eufrasia as his wife, bequeathed as follows: "He orders and commands that the aforementioned heir be held and obligated to perform the office of the feast of Saint Peter each year in the aforementioned church and chapel, with that number of Masses that may be celebrated on that day of Saint Peter." Then, Eufrasia, having become a second wife to Charles Piccinini, commanded as follows: "Also, she leaves an office of ten Masses per year for her soul, during the life of Mr. Charles in the aforementioned church of Saint Francis of the Minor Conventuals. Also, she leaves an office of ten Masses per year for the soul of Mr. Peter Gentili Berardi, to be performed in the aforementioned church of Saint Francis." Therefore, two doubts were proposed: namely, I. Whether the legacy of Peter Gentili is perpetual. II. Whether the legacy of Eufrasia is perpetual.

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The Sacred Congregation responded: To I. Negatively. To II. The legacy for the soul of Eufrasia is temporary, and the legacy for the soul of Peter Gentili is perpetual. Also, in Montisfalisci, on December 16, 1724, Dominic bequeathed to his instituted son and nephew, commanding with these words that the aforementioned heirs, immediately after his death, be obligated to distribute, and give, all of his clothing to the poor, and also be obligated to celebrate annually one Anniversary and annual Masses in the aforementioned church of Saint Peter, etc. Therefore, concerning the doubt: Whether the obligation of the Anniversary and the annual Masses is perpetual, or rather temporary, for the lifetime of the testamentary heirs, the following was decreed: To the first part, negatively; and to the second part, affirmatively. Nor does the decision in Cervieri, in the Register of Legacies, above Reata, Volume XXXIII, page CCCXC, 24, constitute an obstacle.

[*Latin ed. p. 370*]

370. From the decree of the Holy Council, because the reason by which the legacy was established must be examined more closely. Indeed, the will of the testator is more clearly expressed by the words that precede those previously noted by me: for it was expressly stated in the will: "Furthermore, by reason of the legacy, let the following be paid annually to the caretaker, after the death of the aforementioned heir who enjoys usufruct, 50 scudi to the caretaker of the Venerable Altar of the Blessed Virgin Mary of the Most Holy Rosary." Therefore, the legacy is understood to be attached to the altar, as is noted on the page - there - "Thus, concerning the first legacy, it is most important to note that the pious testator ordered that fifty scudi be paid annually to the caretaker of the Altar of the Rosary. Since it has been written in the will that the legacy is for the altar, it certainly follows that perpetual renunciation must be made in the same way that the altar is perpetual." Thus far, regarding the first question. - Regarding the second, subordinate question, namely, regarding the reduction of the burden, when this is declared to be perpetual, the entire matter depends on the prudent judgment of the Most Reverend Fathers. For the reduction of the burden pertains to the clemency of the Prince. Nevertheless, because the administration of dispensations and indulgences must also be prudent and in accordance with equity, it has always been the solemn opinion of the Holy Council that certain rules or causes for dispensations must be observed. Thus, Benedict XIV explains in *De Synodis*, book 13, number 28: "The causes for which it is permissible to seek a reduction are usually, indeed perhaps always, provided by a decrease in revenues, which were assigned for the fulfillment of the burdens; sometimes, however, by increased alms collected by the Bishops in their Synods, so that, although at the beginning, what was established by the founder was sufficient for the support of the prescribed burden, nevertheless, due to the subsequent

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increase in alms for the Masses, a deficiency is discovered, and no priest can be found who will celebrate Mass, having received the alms according to the old assessment; therefore, the one to whom the burden of providing for such Masses is entrusted, if he wishes to fulfill the burden imposed upon him, must be compelled to give a larger sum to the priests who will celebrate."

[*Latin ed. p. 371*]

REATINA, 371, concerning the distribution of alms; and the Council of Trent also foretold these necessities, Decree, chapter 4, session 25, concerning reforms. Having considered these matters, the question was raised as to what should be answered regarding the two questions presented above on page 364. RESOLUTION. The Holy Congregation, after deliberation on June 23, 1900, "decided to respond: To I. Negatively. To II. Provided in I."

EXCERPT FROM THE THIRD GENERAL SESSION OF THE HOLY OFFICE, REGARDING A DOUBT concerning the obligation to ensure the conversion of a heretical spouse and concerning the manner of celebrating a mixed marriage.

Most Reverend Father,

Bishop N. N., prostrate at the feet of Your Holiness, implores a solution to the following doubts:

I. Whether, in mixed marriages, it suffices for the Catholic party to promise, without swearing aloud and in writing before two witnesses, to strive for the conversion of the non-Catholic party, without the latter's presence.

II. Whether it is permissible to continue the practice introduced there of celebrating mixed marriages in church without the nuptial blessing, in order to avoid the danger of celebrating them among heretical ministers who are accustomed to celebrate mixed marriages in church.

So help us God. Thursday, November 29, 1899.

In a General Congregation held by the Most Reverend and Illustrious Cardinals, General Inquisitors, after the aforementioned doubts were proposed, and with the vote of the Most Reverend Consultors preceding, the same Most Reverend and Illustrious Cardinals ordered that the following be answered:

To I. Affirmative.

To II. Let the Instruction of Antonelli, dated November 15, 1858, be given (1).

On the following Saturday, December 1st of the same year, the Most Holy Father, with the faculties granted to him by His Eminence, the Cardinal Secretary of the Holy Office, approved the votes of the Fathers.

I. Canon (1) See Volume VI, page 456.

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MANCINI, S. R. and U. I., Notary.

[*Latin ed. p. 372*]

572 FROM THE SACRED CONGREGATION OF THE ROMAN INQUISITION: A QUESTION: Whether it can be permitted for a heretic to act as godfather. Most Reverend Father, Archbishop N. N., prostrate at the feet of Your Holiness, humbly asks whether it can be permitted for a Protestant to act as godfather in the Catholic baptism of a daughter of parents of mixed religion, married only before the minister of the heresy. Most Reverend Father, on Thursday, June 27, 1900, in the General Congregation held by the Most Reverend and Right Reverend Cardinals, General Inquisitors, concerning the aforementioned question, and after the vote of the Most Reverend Consultors had been presented, the same Most Reverend and Right Reverend Fathers ordered that the following should be answered: It cannot be permitted. On the following Friday, June 28 of the same month and year, during the usual audience of His Holiness, Pope Leo XIII, with the Most Reverend Father, the thirteenth Ordinary Father, Assistant to the Holy Office, present, His Holiness approved the resolution of the Most Reverend and Right Reverend Fathers. I, Canon Mancini, Sacred and Royal Inquisitor, Notary.

PERMISSION: It is granted that the Bishop may communicate matters of the Holy Office with his General Vicar, so that he may also be able to oversee their proper execution. Most Reverend Father, Archbishop N. N., prostrate at the feet of Your Holiness, devoutly explains that, at times, he needs to communicate matters of the Holy Office to his General Vicar, so that he may also be able to oversee their proper execution, and therefore humbly requests the necessary faculty to do so, under the same secrecy of the Holy Office. Most Reverend Father, on Thursday, July 11, 1900, in the General Congregation held by the Most Reverend and Right Reverend Cardinals, General Inquisitors, concerning the aforementioned requests, and after the vote of the Most Reverend Consultors had been presented, the same Most Reverend and Right Reverend Fathers ordered that the following should be answered: In the request of the Archbishop, let the words be spoken with His Holiness. On the following Friday, July 13 of the same month and year, during the audience of His Holiness, Pope Leo XIII, with the Most Reverend Father, the thirteenth Ordinary Father, Assistant to the Holy Office, present, the same Holy Father benignly granted the favor. I, Canon Mancini, Sacred and Royal Inquisitor, Notary.

[*Latin ed. p. 373*]

FROM THE SACRED CONGREGATION OF THE ROMAN AND UNIVERSAL INQUISITION, 573: DOUBT: Whether a Bishop can delegate a parish priest to administer the oath concerning the marriage of vagrants, and whether he can obtain permission to include this in the Diocesan

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Synod.

Most Reverend Father, the Bishop N. N., prostrate at the feet of Your Holiness, humbly explains that, for serious reasons, including the distance of the places, it is often not possible to delegate Vicars Forane to administer the supplementary oath for the marriages of vagrants; it is therefore much more appropriate that this delegation be given to the parish priest or the vice-parish priest of the place. He therefore requests that this faculty be granted to him, notwithstanding that the parish priests or vice-parish priests may perhaps not be considered persons of significant standing and suitable, according to the instruction of the Holy Office of August 21, 1676, as the Vicars Forane were considered to be in the response of the Holy Office of February 24, 1847, to doubt VII.

And since the supplicating Bishop intends to celebrate the Diocesan Synod, he respectfully asks whether, in said Synod, he can regularly delegate the parish priests and those who administer the vacant parishes to receive such supplementary oaths.

So it was. On Friday, August 8, 1900. In the General Congregation of the Sacred Roman and Universal Inquisition, before the Most Eminent and Reverend Cardinals, General Inquisitors, after the aforementioned requests were presented, and after the vote of the Most Reverend Consultors, the same Most Eminent and Reverend Cardinals ordered that the following response be given:

Regarding the matter mentioned in the requests concerning its inclusion in the Diocesan Synod, it is not advisable. Furthermore, the Bishop should use the biennial faculty that he has from this Supreme Congregation, by which he can delegate any parish priest to administer the supplementary oath.

On the following Friday, August 10 of the same year, in the presence of His Holiness, Pope Leo XIII, Divine Providence, with the Most Reverend Lord, the Assistant of the Holy Office present, His Holiness approved the resolution of the Most Eminent and Reverend Fathers.

I. CAN. MANCINI, Notary of the Sacred Roman and Universal Inquisition.

DOUBT: What about ordination to the priesthood without the will to perform that office?

Most Reverend Father, the Archbishop N. N., prostrate at the feet of Your Holiness, humbly explains the following. A very good priest of his diocese, but tormented by scruples, doubts his own faith in the act of ordination.

[*Latin ed. p. 374*]

From the Sacred Congregation of the Holy Office, No. 574, a presbyter refused his consent to each part of the ordination, thus proposing: "In order that I may later have no doubt concerning the invalidity of this my

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ordination, I declare that I do not wish to be ordained; my ordination will take place at another time; not daring to leave the church, I will now only make it appear to my companions that I am ordained." Consistent with this intention, he did not pronounce the words of consecration, believing them essential to the validity of the ordination; he did not intend to receive the power to remit sins, having only undergone the material imposition of hands by the ordaining Bishop; nor did he intend to promise obedience to the Bishop, intending to do so at another time, when he would be ordained again. However, reliable information indicates that he maintained a most praiseworthy conduct throughout the time spent in the seminary and ardently desired the priesthood; that on the day of the ordination, encouraged by the confessor to disregard the scruple, he celebrated his first Mass. Given all of this, the humble speaker asks whether the aforementioned ordination can be considered valid.

Most Reverend Father, on Thursday, the 28th of November, 1900, in the General Congregation of the Holy Office, before the Most Eminent and Reverend General Inquisitors, Cardinals, having considered the aforementioned case, and after hearing the vote of the Most Reverend Consultors, the same Most Eminent and Reverend Fathers ordered that the ordination be repeated in its entirety, under any condition or secret, and that the words be spoken before the Holy Father, so that it may be fulfilled for the sake of the Church, and that, for the Masses celebrated in this case, [the proper provisions be made].

On the following Saturday, the 30th of the same month and year, during the customary audience granted by His Holiness, Pope Leo XIII, Divine Providence, the Thirteenth, Reverend Father, Assessor of the Holy Office, the Holy Father approved the resolution of the Most Eminent and Reverend Fathers, and graciously granted his favor.

I. Mancini, S.R. and U. of the Holy Office, Notary.

Doubt: Concerning a priestly ordination in which a part was lacking, but afterwards the words were added during the unction of hands.

Most Reverend Father, Bishop N. N., during the ordination of priests, when he arrived at the unction of hands, did indeed anoint the hands of each, pronouncing the words "Deign to consecrate and sanctify..." up to the word "Amen"; and he closed the hands of each, blessing them.

[*Latin ed. p. 375*]

375 From the Sacred Congregation of the Holy Office, but without adding other words: "as whatever they bless may be blessed, etc.," up to the second "Amen." However, this omission was entirely involuntary, and indeed arose even from the great attention with which the Bishop pronounced the first words simultaneously with the unction of hands; and it also arose because a rubric intervened between the first words and

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those that were omitted. When the last ordained man, having received the unction of hands as mentioned above, the Bishop noticed the omission of the words: "as whatever they bless may be blessed, and whatever they consecrate may be consecrated, etc.," overcome by excessive anxiety, and invoking the help of God in his heart, he pronounced the omitted words, namely: "as whatever they bless may be blessed, and whatever they consecrate may be consecrated, etc.," with the intention of pronouncing them over all the newly ordained priests who were present before him, believing that in this way he would repair the omission. The Bishop, anxious about this matter, inquired whether he could do so. Thursday, November 28, 1900. In the general congregation of the Sacred Roman and Universal Inquisition, held by the Most Eminent and Reverend Cardinals, General Inquisitors, regarding the aforementioned doubt, and after the vote of the Most Reverend Consultors, the same Most Eminent and Reverend Fathers were ordered to respond: "Let him do so." On the following Friday, the 30th of the same month and year, in an audience with His Holiness, Pope Leo XIII, in the Sacred Congregation of the Holy Office, the Most Holy Father approved the resolution of the Most Eminent and Reverend Fathers. I, Canon Mancini, Servant of God and of the Inquisition, Notary. FROM THE SACRED PENITENTIARY APOTOLIC, regarding doubts concerning the Great Jubilee extended to the entire world. I. During the present Jubilee year, is it permissible for confessors to use, with regard to the same penitent who has not yet fulfilled all the works prescribed to obtain the Jubilee indulgence, the extraordinary faculties granted to them? His Holiness ordered that the following be answered: "Affirmatively." II. In places where processions are not permitted in public streets, may gatherings of religious bodies and other faithful who assemble in designated churches, at a designated time, be considered equivalent to processions, in order to reduce the number of visits? His Holiness ordered that the following be answered:

[*Latin ed. p. 376*]

376 From the Apostolic Penitentiary: Those who are under the guidance of their own Moderator, and respectively, under their own Parish Priest or another priest appointed by him, are to gather together to perform the visitations, as is stated there. Furthermore, considering the circumstances of the present time, a special dispensation is granted so that, in places where processions are not permitted, the visitations, as described, may be performed as if they were done in a procession. III. For those who reside in places far removed from the Parish Church, can another Church or a public oratory of easier access be designated by the Ordinary for the purpose of performing the visitations? R. By special grace: Affirmative. IV. Must the six months to which the Jubilee extends outside the city necessarily be continuous, or can they be interrupted and divided into parts within

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the year by the Ordinary? R. Affirmative to the first part; negative to the second. Nevertheless, the Holy See benignly grants that, in the presence of a grave and legitimate reason, the Ordinary may, according to his prudent judgment, divide the six-month period into parts; provided, however, that the Jubilee can only be obtained once, although the prescribed works themselves may be distributed throughout the months designated by the Ordinary. V. Some Bishops having requested a dispensation so that a single Confession and Communion may suffice for the fulfillment of the Church's precept and the work prescribed for gaining the Jubilee, the Holy See did not deem it fitting to grant this. Given in Rome, in the Holy Penitentiary, on the 25th of January, 1901. + Cardinal Vannutelli, Major Penitentiary. R. Celli, Substitute of the Holy Penitentiary. FROM THE HOLY CONGREGATION OF RITES, SAINT-CLAUDE. Concerning the beatification and canonization of the venerable Servant of God, Anne de Xainctonge, foundress of the Congregation of Sisters called the Sisters of Saint Ursula of Dola. The new association of sisters called the Sisters of Saint Ursula of Dola, also contributed, albeit in a small way, to opposing the erroneous and perverse opinions with which both religious and civil society were being tossed about during the seventeenth century. Its foundress, Anne de Xainctonge, was born in Divione, in Gallia, on November 21st, in the year 1567, from parents of noble birth and outstanding virtue, who the following day took care to have her baptized. As the girl grew older, she possessed everything that...

[*Latin ed. p. 377*]

From the Sacred Rituals, 577, she demonstrated piety and charity, and exercised herself in such works, especially after she was strengthened by the sacrament of Confirmation and nourished with the bread of angels. Still a young woman, she was afflicted by a serious illness and lost her hearing and all the strength of her body, which, however, she regained a little later, with God's help, when her sense of hearing returned. Afterwards, she established a stricter way of life for herself, encouraged in this by Nicola de Ligera, her relative, a woman of singular piety and sobriety, as well as by an ecclesiastical man who spoke to her about Christian temperance and against the luxury of women. Burning with a desire for a more perfect life, and wishing to imitate the excellent examples of the Society of Jesus, which she had always kept before her eyes from her earliest years, and with the approval of her conscience, she left Divion and went to Dola, where she long enjoyed the hospitality of the most pious woman, Claudine Faulquier-Duzin. Later, she entered a girls' college under the discipline of the noble matron, Susanne Renard, and, having renounced the positions of assistant and headmistress, she was joined by noble and pious women, Claudine de Brisset and Isabel Brocard. To care for the infirmity in which she found herself, or rather, to undergo a severe inquiry regarding the plan she had

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undertaken, she returned to Divion at the order of her father, and she defended her cause so well that, with the approval of theologians and her parents, she was released with full freedom to follow her heavenly vocation. Therefore, victorious and renewed in her strength, she returned to Dola, and, with God's help, she established a new religious association among young girls to instruct them in the elements of literature and Christian morals, taking its name and rules from the Congregation of Saint Ursula, which the most holy Virgin Angela Merici had founded not long before, although with a few additions or changes, as circumstances and the conditions of the times seemed to require. This association, approved by a diploma or Bull from Pope Clement VIII, and also recognized by civil authority, opened a house in Dola, perfectly suited for its purpose, on June 16, 1606, and subsequently founded other similar institutions in several dioceses. The Institute was led by the aforementioned servant of God, a provident mother, who shone as an example to others, until, consumed by a long illness and provided with the sacraments of the Church, she surrendered her spirit to God on June 8, 1621. The fame of her sanctity, which had been very great even while she was still alive, increased even more among the Sacred Ministers and the very holy Bishop Francis de Sales after her death, so that an investigation was initiated regarding her.

[*Latin ed. p. 378*]

378 From the records of the Congregation for Religious, located in Saint-Claude, it is evident that the matter has been brought before the ecclesiastical authorities on multiple occasions. The initial investigation was lost, but a more recent one was successfully completed and transmitted to the Sacred Congregation, along with numerous letters of support from various Cardinals of the Holy Roman Church, as well as from many Most Reverend Prelates, from certain superiors of religious orders or pious associations of both sexes, and from other men of ecclesiastical or civil distinction. Therefore, the Reverend Father Mauro Maria Kaiser, of the Order of Preachers, the promoter of this cause, having presented the petitions of all the sisters of the community of Saint Ursula in Dol, and having already obtained, on July 11, 1898, the writings of the Servant of God, and having obtained an Apostolic dispensation on September 10th and 15th of this year, after a period of ten years and after the consultation of experts, and furthermore, the Most Reverend Lord Cardinal Lucido M. Parocchi, Bishop of Porto and Santa Rufina, and the relator of this cause, having signed the proceedings in the meetings of the Congregation for Religious held in Vatican, proposed the following question for discussion: "Should a Commission for the Introduction of the Cause be appointed in this case, and for the purpose of which we are speaking?" Furthermore, the Most Reverend Fathers presiding over the Congregation for Religious, after hearing the report of the Cardinal himself, and after hearing the voice and written opinion of the Reverend

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Father John Baptist Lugari, Promoter of the Holy Office, and after all due deliberations, decided to respond: "Affirmatively, that is, a Commission should be appointed, if it pleases the Most Holy [Pope]." On November 13, 1900. Subsequently, the Reverend Father John Baptist Lugari, Promoter of the Holy Office, reported these matters to His Holiness, Pope Leo XIII. His Holiness, approving the decree of the Sacred Congregation, deigned to sign the Commission for the Introduction of the Cause of the Venerable Servant of God, Anne of Sainctonge, the foundress of the Congregation of Sisters of Saint Ursula of Dol, on the twenty-fourth day of the same month and year.

DOMINICUS CARD. FERRATAS.

R. C. Praef. L.

* S. DIOMEDES PANICI, S. R. C. Secretarius.

[*Latin ed. p. 379*]

FROM THE SACRED CONGREGATION OF RITUALS, HEROIC VIRTUE 579, JUSTICE (1). Nothing is more desirable than justice, nothing is more excellent, nothing is better for a man, nothing is more worthy of a Christian name: For justice, according to Ulpian, is the constant and perpetual will to give to each one what is his due (Institutes, Book I, Title I), and I do not understand what a person who condemns this pursuit could possibly consider worthy of praise. For all the precepts of sanctity, whether those that pertain only to God, or those that concern dealings with one's neighbor, or finally those that regard one's own dignity and honor, are contained in justice. In this also, our venerable Joan shone forth with extraordinary sanctity, being neither more religious, nor more humble, nor more upright: and with the utmost agreement, and as it were, with one voice, the witnesses testify about her, compelling us to believe. Let the witness XI be an example: "From the aforementioned documents and from what I have observed from the aforementioned nuns, I can testify that the Servant of God was an example of obedience to the precepts of God, the Church, and other obligations that concerned her. Also, in the faithful observance of the rule of her Institute and the vows she professed, the Servant of God was distinguished." But, as we shall speak individually about the parts of this virtue, it should first be said about Joan's heroic justice in God; but with regard to this matter, we have already recounted many things, and we have examined more testimonies, when we spoke above about faith. Therefore, we, your Eminences, in all due obedience, refer you to those matters: nevertheless, it is permissible to bring to your attention the religion of God's Handmaid, with which she worshipped God and the Holy Family, the diligence with which she encouraged her sisters in their study and observance, and finally, the outstanding devotion

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with which she used to celebrate the heavenly feasts, as the witness III says: "She distinguished herself in prayer by a spirit of extraordinary fervor, and she always encouraged her sisters to fervor and devotion in prayer. She nourished a special devotion to the mysteries of the Passion of Our Lord, and I know that..." (1) This is followed by the process for the beatification of the Venerable Joan Touret, the beginning of which is on page 229.

[*Latin ed. p. 380*]

380 FROM THE SACRED RITUAL: When reciting the Rosary with the sisters, she was accustomed to explain each mystery with great fervor and penetration of spirit, using appropriate little sermons. She was especially distinguished by this fervor and penetration when explaining the sorrowful mysteries. To these things, it must also be added what Witness I affirmed: "She also had great devotion to our protector, Saint Vincent de Paul, and in the rules that she wrote, she imposed upon us the obligation to recite, after the refectory, a litany in which the patron saints of our Institute are invoked, which demonstrates the special devotion that the Servant of God had towards them." And Witness I II: "She also had special devotion towards the Angels and the Saints, especially those of whom our rules speak, such as Saint Joseph, Saint John, Saint Gennaro, Saint Luigi Gonzaga, and Saint Vincent de Paul. And I must testify that she shared largely in the spirit of Saint Vincent de Paul." Finally, Witness XVII: "She placed the novitiate of our Institute under the protection of Saint Joseph. During her travels, especially during the period of the French Revolution, she placed herself under the custody and protection of her Guardian Angel. She also had special devotion towards Saint Vincent de Paul, under whose protection she founded the Institute: a saint whom she often called the master of the house of the Institute." Regarding her piety towards her homeland, I will not say much, since no witness of God's handmaid explicitly mentions that she loved France; but the deeds that she performed throughout her life, and especially the Institute of the Sisters of Charity, clearly demonstrate the fervent love of this Virgin. But if we consider that philosophical sentiment: "To each person, his own country is dearest, as long as he seeks to preserve it above all else" (Cass. epist. 39), then undoubtedly France was dearest to our heroine, to whose benefit and good she devoted her entire life, and to whom she left such a distinguished congregation in her will. Indeed, it is not unfair to say that this was the greatest of her benefactions; for the congregation of the Sisters of Charity, founded by Joanna Antida Touret, has been able to provide assistance to those in need, either by providing wages to the poor, or by helping the sick, or, most importantly, by teaching boys and girls, who are ignorant and badly behaved, the rudiments of learning and good morals, so that they may one day become excellent citizens and contribute to the good of their country. With equal concern, she also looked after families, taking the greatest care of domestic affairs, as much as can

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be gathered from the unanimous testimony of the witnesses.

[*Latin ed. p. 381*]

Regarding the rites, we can understand that, even as a young girl, she was orphaned by the most grievous loss of her mother's love. The witness states: "With regard to her family home, she showed the utmost care, especially when, at the age of 16, she lost her mother." It is also recorded in the history, which our Sister Joan revealed, that the most illustrious woman, who had been a member of the Congregation of the Daughters of Charity, upon returning to her homeland, with great charity, sought to bring back her brother, Joachim, who had joined a heretical society, to the path of righteousness, although without success. Concerning obedience and respect, it seems that we should only say that the Handmaid of God always yielded to those who preceded her in authority, in dignity, and in honor, and above all, she revered those who governed either the Church or the state, far before others; first, the Roman Pontiff, then the Bishops and priests, and finally, the rulers of the people, the nobles, and the leading citizens of the city, whose commands she always and everywhere obeyed, always preserving, however, the due faith of the Church, which she held intact and inviolate, and with a most willing spirit, she often faced vexations and threats. Then, we will present the specific actions that the Handmaid of God performed through her obedience, especially when we discuss the observance of her vows. As for her heroic justice towards others, we have gathered more information from a large group of witnesses, some of whom praise the piety and humanity of the Handmaid of God, while others marvel that this woman never offended anyone; one commends her patience towards her rivals, while another praises the fact that she did not withhold the reward for the work of the laborers. Therefore, amidst this large crowd of laudators, this discordant voice resounds, and therefore, so that the cause may not be weakened, we may use and present the words of these witnesses. Therefore, let us begin with Witness II: "Regarding justice towards others, I testify that she was of exemplary and rigorous justice. Often, the Servant of God was distressed because she could not remember from whom she had received certain temporal benefits, and out of delicacy of spirit, she feared that she would not be able to properly acknowledge the use of these means for the purpose intended by the benefactors." And Witness III states: "Regarding justice towards others, I can testify, based on what I myself know, and on what I have learned from the aforementioned tradition, that the Servant of God was always diligent in properly compensating the work of the artists whose works she used, as..."

[*Latin ed. p. 382*]

382 FROM THE SACRED RECORDS: "I testify that I have never understood that the Venerable Servant of God detracted from the reputation of

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others, nor have I ever heard her utter a word that hinted at any criticism or murmur." This is also confirmed by Witness XVII: "Regarding justice towards others, it is well known that the Venerable Servant of God kept records in which she meticulously wrote down everything concerning the works entrusted to her, and she always paid with precision and fidelity. From the collection of letters of the Venerable Servant of God, which I have partially read, I have understood that she was very measured and circumspect with regard to the esteem and reputation of others." Let us also hear Witness XII: "Regarding justice towards others, it is well known that she never complained about the evils she suffered, especially from the revolutionaries, and from those who promoted the schism within her Institute, after the rules were approved by the Holy See, with the modifications that I have declared above, and in all things she was deeply resigned to the divine will." Justice also pertains to fulfilling duties and obligations, both those taught by natural law to all men, those commanded by divine and ecclesiastical precepts, and finally, those prescribed by one's own condition, status, and responsibilities. In these matters, our Sister Joanna Antida shone remarkably, leaving nothing to be objected to from her tender youth until her death. Therefore, let us not be lengthy, but let us gather some things from what all the witnesses assert. For example, the words of Witness X, which briefly encompass all of this kind of justice: "From what I have understood from the aforementioned persons, I know that the Servant of God was an example of perfect observance of the precepts of God and the Church, of the vows she professed, and in everything that concerned her." Witness XVII states even more clearly: "The Servant of God, as I mentioned above, was the Mother General of her Institute during her life, and according to the constant tradition, she possessed all the qualities of a holy superior, distinguished by exceptional prudence, charity, and exemplary observance, which she promoted above all by her example, so that she was very loved by her subjects." Thus, the other witnesses agree unanimously: therefore, considering the heroic justice of the Handmaid of God to be sufficiently proven, we submit the matter to your judgment, Most Reverend Fathers.

[*Latin ed. p. 383*]

FROM THE SACRED CONSTITUTION ON HEROIC FORTITUDE, 585. Indeed, no one who has carefully considered the illustrious deeds of Saint Joan of Arc, or who has merely glanced at the account of her life, could believe that she lacked fortitude; for this heroic virtue, along with charity, shines so brightly in all of her life and conduct, that she seems worthy only of those things that lead to heavenly honors. But what is fortitude, if not the strength of the soul, which is manifested openly and plainly, when, according to the opinion of Saint Ambrose, each one conquers himself, controls his anger, is not softened by any temptations, is not disturbed by adversity,

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nor elated by success? (De Officiis, chapter 36). It is a marvelous thing that the most learned doctor has included this characteristic of our heroine, who wonderfully strengthened her natural weakness through the use and exercise of masculine virtues! The witness, Testis I, describes the matter in these words: "It was also admirable how steadfast she was in her faith, for, according to constant tradition, she was firm and unwavering in the fulfillment of her Christian duties, from which she never wavered, despite the persecutions and ill-treatment she suffered from the revolutionaries, not even the danger of death; and it is well known in our Institute that she did not care for her life when it came to doing what would lead to the greater glory of God and the good of others. In the exercise of these Christian virtues, according to the aforementioned tradition, the Servant of God persevered constantly until her death." But let us consider the matter more clearly and distinctly. First, the Handmaid of God was not weakened by any temptations, nor did she yield to the prayers of her parents or brothers, nor was she affected by pleasures, but rather, she often affirmed with great faith that she would fulfill her divine vocation in every way. Thus, Testis II says: "The father, as well as other relatives, opposed the will of the Servant of God, especially wanting to arrange a marriage for her, but the Servant of God was firm in her resolution, often replying that she would not be persuaded to marry, not even to a king." This is also confirmed by Testis XXIX: "The same tradition affirms that the Servant of God, already a Daughter of the..."

[*Latin ed. p. 384*]

584 From the life of St. Catherine, charity suffered many temptations that invited her to a worldly life, but she remained steadfast, not embarking on any such career. She had chosen a hard, difficult, and arduous path! For only a short time had passed since she had vowed herself to God in the congregation of the Daughters of Charity, when the fervor of the people was inflamed, and from this arose a terrible and merciless persecution against the king, against the nobles, against the Catholic Church, marked by wickedness, robberies, and murders. With fortitude, the handmaid of God withstood the onslaught of the enemies, remaining like a tall tower, standing firm against the north wind, and neither threats, nor wounds, nor the danger of death disturbed her, nor did they deter her from her undertaking. Take this testimony from a second witness as proof of her heroic fortitude: "Above all, her Christian fortitude shone forth in the fact that she always refused to take the oath of the civil constitution of the clergy, an oath that was repeatedly demanded of her, and which the Most Holy Lady did not wish to take in any way, content to suffer every evil in order to remain faithful to God and the Church. With equal constancy and firmness, the Most Holy Lady never wished to recognize those priests who at that time adhered to the constitution of the clergy and became schismat-

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ics, nor did she ever wish to assist at their Masses in any way, or participate with them." What more need be said? She provided aid and assistance to persecuted priests, even though she knew that she was incurring great danger, if anyone should reveal her pious secrets to the envious or hateful, or even if, unknowingly, those who presented themselves as good men, but were in fact informers, should imprudently offer her assistance: "Not at all," says Witness XI, "was the Servant of God remiss in the fulfillment of her duties, and she was most faithful to her vocation, and without allowing herself to be deterred by any danger, she received persecuted priests in her house, and she converted a schismatic, and secretly continued her visits to the poor." Add also, if you wish, the testimony of Witness XIII: "The aforementioned Sister added that the Most Holy Lady Thouret had tried to convert a sick priest who had taken the oath then imposed, and that she used to carry hidden under her clothes sacred vessels in order to have Mass celebrated for Catholic priests who were living in hiding because they were persecuted." (follows)

[*Latin ed. p. 385*]

585 ENCYCLICAL LETTER of Our Most Holy Lord Leo XIII, by divine providence Pope, concerning Christian democracy. Grave discussions concerning the common economic good, which are already undermining the harmony of societies, are increasing day by day and are becoming so heated that the very plans of prudent men are rightly suspended and cause for concern. These errors, stemming from a widespread perversion of philosophy and action, have first arisen. Then, the new arts, brought forth by the age, the speed of transportation, and all manner of instruments for reducing labor and increasing profits, have exacerbated the conflict. Finally, between the wealthy and the working class, incited by the machinations of wicked men, the situation has reached such a point that states are frequently agitated by unrest, and seem to be threatened by great calamities. Indeed, scarcely at the beginning of Our pontificate, We carefully observed how civil society was endangered from this source; and We considered it Our duty to openly warn Catholics, of how much error lay hidden in the tenets of socialism, and how much ruin it threatened, not only to external goods of life, but also to the integrity of morals and the cause of religion. This is what was addressed in the encyclical letters *Quod Apostolici Muneris*, which We issued on December 28, 1878. — However, as these dangers increase daily, both for Us privately and publicly, We strive again and more earnestly to provide a remedy. Similarly, in the letters *Rerum Novarum*, on May 15, 1891, We spoke extensively of the rights and duties of both classes of citizens, those who possess capital and those who provide labor; and We also demonstrated remedies derived from evangelical precepts, which are considered most useful for preserving the cause of justice and religion, and for resolving all discord among the orders of the state.

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And, with God's help, Our confidence has not been in vain. For even those who dissent from the Catholic faith have, moved by the power of truth, acknowledged that the Church extends its care to all classes of society, and especially to those who are in a miserable condition. And Catholics have sufficiently perceived the benefits from Our documents. For from them they have not only drawn encouragement and strength to pursue the best of endeavors; but also...

[*Latin ed. p. 386*]

386. Even the light of the Encyclical has been drawn upon, and through its benefits, the study of such disciplines proceeds more safely and happily. Consequently, disagreements among them have been, in part, suppressed, and, in part, softened. In practice, this has resulted in the establishment of numerous and useful initiatives, either newly instituted or strengthened, to address the concerns of the working class, particularly in those places where they are most afflicted. These include: charitable assistance offered to the ignorant, known as "popular secretariats"; tables for the provision of food to rural laborers; associations, some dedicated to providing mutual aid, others to alleviating necessities arising from misfortune; guilds of workers; and other similar forms of assistance and societal endeavors. Thus, under the auspices of the Church, a certain union of action and a providentially initiated institution has begun among Catholics to aid the people, who are so often beset by dangers and hardships, as well as by poverty and toil. This form of popular beneficence, although not initially distinguished by a specific name, has been called "Christian socialism" by some, a name which, it must be admitted, is not entirely undeserved. Later, it was deemed more appropriate to call it "popular Christian action." Furthermore, there are those who, when engaged in such endeavors, are called "social Christians"; elsewhere, it is referred to as "Christian democracy," by those Christian democrats who are devoted to it; in contrast to the "social democracy" advocated by socialists.

Indeed, of the two terms used to denote this, "social Christians" and "Christian democracy," the latter, among many good people, causes more offense, as they believe that something ambiguous and potentially dangerous is associated with it. They fear this appellation for several reasons: namely, that under the guise of promoting popular welfare, other political forms might be favored; that the benefits of the people might seem to be pursued at the expense of the established order of the state, thereby restricting the influence of the Christian religion; and finally, that under this veiled name, a certain intention of undermining legitimate authority, whether civil or ecclesiastical, might be concealed.

Given that this matter is already being debated too much, and sometimes acrimoniously, it is the duty of conscience to impose limits on the controversy, to define what Catholics should think in this matter; furthermore,

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it is advisable to provide certain guidelines, so that their actions may be expanded and become much more beneficial to the state.

[*Latin ed. p. 387*]

ENCYCLICAL LETTER 587 What social democracy desires, and what it ought to desire for Christians, cannot be uncertain. For the former, whether it admits it more or less openly, is driven by a certain wickedness, and considers nothing to be above human things; it holds that the goods and external advantages of the body constitute the happiness of man, and seeks to obtain and enjoy them. Therefore, it desires that power should be in the hands of the people in the state, so that, with the grades of authority removed and citizens equalized, there may be progress towards equality among them in the enjoyment of goods; therefore, it seeks to abolish the right of dominion; and whatever fortunes are held by individuals, and even the instruments of life itself, should be held in common. But Christian democracy, precisely because it is called Christian, must be based on principles derived from divine faith, and must look to the deepest interests, so that it may properly perfect souls for eternal things. Therefore, justice must be paramount for it; it must command that the right to possess and enjoy property be maintained; it must defend the proper and well-established orders; and it must desire that the form and character of the state be such as God, its author, has ordained. It is therefore clear that there is no communion between social democracy and Christian democracy: they differ from each other as much as the sect of socialism differs from the profession of the Christian law. It is, however, a falsehood to twist the appellation of Christian democracy for political purposes. For although democracy, from the very meaning of the name and from the usage of philosophers, indicates a popular government; yet in its present usage, it must be understood in such a way that, with all political connotations removed, it signifies nothing other than that very Christian action for the benefit of the people. For the precepts of nature and the Gospel, because they transcend human affairs by their own right, must necessarily be independent of any form of civil government; but they can be compatible with any form, provided that they do not contradict honesty and justice. They are, therefore, entirely and completely alien to the pursuits of parties and various events: so that in any constitution of the republic, citizens can and must adhere to the same precepts by which they are commanded to love God above all things, and to love their neighbors as themselves. This has always been the constant teaching of the Church; and the Roman Pontiffs, following this teaching, have always dealt with states, whatever the form of their government. Since this is so, the thought and action of Catholics, which strive to promote the good of the working class, cannot in any way aim to favor one form

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of government over another.

[*Latin ed. p. 388*]

588. In a manner not dissimilar to that of Christian democracy, another source of offense must be removed: namely, that the care for the lower orders is so arranged that it seems as though the higher orders are overlooked; yet their service is no less necessary for the preservation and perfection of the state. This is warned against by the law of charity, which we recently discussed, and which applies to all men of every rank, since they are all members of one and the same family, created and redeemed by the same most benign Father and Savior, and called to the same eternal inheritance. Indeed, this is the teaching and admonition of the Apostle: "One body and one Spirit: as you are called in one hope of your calling." One Lord, one faith, one baptism. One God and Father of all, who is above all, and through all, and in all of us (1). Therefore, because of the natural connection of the people with the other orders, and because this connection is strengthened by Christian fraternity, it is certainly necessary that, whatever diligence is shown to the people, they also be called to participate in the work, as we shall explain below; and even more so, because it is fitting and necessary for the success of the matter that they themselves be called to participate. Far be it that the designation of Christian democracy should lead to the abandonment of all obedience to those who legitimately hold authority. The law, both natural and Christian, commands that those who hold authority in the state, according to their rank, should be respected, and that obedience should be given to their just commands. Indeed, it is fitting and proper, for both a man and a Christian, to render this obedience from the heart and with a sense of duty, as the Apostle himself warned when he said: "Let every soul be subject to higher powers. For there is no power but from God: and those that are ordained of God" (2). It is abhorrent to the profession of Christian life to refuse to submit to and obey those who, with authority, precede in the Church: especially the Bishops, whom the Holy Spirit has appointed, with the full authority of the Roman Pontiff, to govern the Church of God, which He acquired with His blood (3). Indeed, he who thinks or acts otherwise is certainly guilty of forgetting the most serious precept of that same Apostle: "Obey your leaders, and submit yourselves" (4).

(1) Eph. IV, 4-6.

(2) Rom. XIII, 1, 5.

(3) Acts XX, 28.

(4) Heb. XIII, 17.

[*Latin ed. p. 389*]

ENCYCLICAL LETTER 589: It is of the greatest importance that all the faithful strive to impress deeply upon their minds and to perfect in all their

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habits that which we have stated: and that the ministers of the sacred rites, diligently considering this, persuade others not only by exhortation, but especially by example, not to neglect it. Therefore, having recalled these principles, which we have previously illustrated by examples given on suitable occasions, we hope that any dissent from the name of Christian democracy, and indeed anything signified by that name, will be put aside, and that all suspicion of danger will be removed. And indeed, we have good reason to hope this. For, even if some have expressed opinions regarding the power and virtue of this Christian democracy, which opinions may contain some excess or error; certainly no one will condemn that endeavor which, according to natural and divine law, pertains solely to this: that those who sustain life by labor and skill may be brought to a more tolerable condition, and may gradually see their own prospects improve; that they may freely perform their duties at home and in public, the duties of virtue and religion; that they may feel themselves to be not mere animals, but men, not pagans, but Christians; and that, therefore, they may strive more easily and diligently towards that one essential thing, that ultimate good for which we are born. Indeed, this is the goal, the work of those who wish to uplift the people with a Christian spirit, and to protect them from the pestilence of socialism. We have now deliberately mentioned the duties of virtue and religion. For some hold the opinion, which prevails among the common people, that the social question, as they say, is merely economic; whereas, on the contrary, it is primarily moral and religious, and for that very reason must be settled primarily by the judgment of morals and religion. Let it be the case that wages are reduced; let it be the case that the time for work is shortened; let it be the case that the price of food is low: but if the worker hears those doctrines, as is customary, and uses those examples, which add to the contempt for divine reverence and corrupt morals, then even his labors and his livelihood will necessarily suffer. It has been observed by experience and use that many workers live in narrow and miserable circumstances, who, although they work for a shorter time and with lower wages, live with corrupt morals and without any religious discipline. Let them, instead, embrace the sentiments that are instilled and cultivated by Christian wisdom; let them practice providence, modesty, frugality, patience, and other virtuous habits; and they will find that prosperity, even if it requires much effort, will be achieved. This is plainly...

[*Latin ed. p. 390*]

590. This Encyclical letter explains the reason why Catholics should form associations to provide better assistance to the poor, and to undertake similar endeavors. We have never hesitated to remind everyone that these activities should be undertaken under the auspices of religion, and with its support and guidance. It seems fitting that greater praise should be given to the willingness of Catholics to serve the poor, especially since this is being

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carried out in the very field where the Church, with a benevolent spirit, has diligently and successfully practiced active charity, adapting itself to the times. Indeed, by the law of mutual charity, which, as it were, perfects the law of justice, we are not only commanded to give to each person what is due to him, and to refrain from hindering him in the exercise of his rights; but also to show kindness to one another, not in word or with the tongue, but in deed and in truth (1). And we must remember what Christ said to His own: "A new commandment I give you, that you love one another; as I have loved you, that you also love one another. By this all men will know that you are my disciples, if you have love for one another" (2). This effort to show kindness, although it should primarily be concerned with the spiritual well-being of others, should not neglect those things that are useful and helpful in life. In this regard, it is worth remembering that when the disciples of John the Baptist asked Him: "Are you the one who is to come, or shall we look for another?" He made it clear that the reason for His ministry among men was derived from this principle of charity, as expressed in the words of Isaiah: "The blind receive their sight, and the lame walk, the lepers are cleansed, the deaf hear, the dead are raised, and the poor have the good news preached to them" (3). And when speaking of the final judgment and the awarding of rewards and punishments, He declared that He would, in a certain respect, consider how men had shown kindness to one another. In Christ's words, it is not without admiration that He, silently omitting the inner workings of mercy, only mentions external acts, as if they were performed for Himself: "For I was hungry, and you gave me food; I was thirsty, and you gave me drink; I was a stranger, and you took me in; I was naked, and you clothed me; I was sick, and you visited me; I was in prison, and you came to me" (4). To these examples of kindness, both in regard to the spiritual and physical well-being of others, Christ added examples of Himself (1) 1 John 3:18. (2) John 13:34-35. (3) Matthew 11:5. (4) Ibid. 25:35-40.

[*Latin ed. p. 391*]

ENCYCLICAL LETTER 391, most excellent. In the present matter, it is certainly most pleasing to recall those words, uttered with a paternal heart: "I have pity on the multitude" (1), and with a will to wonderfully assist them: of whose mercy the proclamation stands: "He went about doing good, and healing all that were oppressed by the devil" (2). — The Apostles, having received from Him the discipline of charity, first revered and observed it most piously; and after them, those who embraced the Christian faith, have been the authors of discovering various institutions to alleviate the miseries of men, whatever they may be. These institutions, having grown with continuous increase, are a most proper and excellent ornament of the Christian name and of humanity itself: so that even men of sound judgment cannot sufficiently admire them, and I am most pleased that it is

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so, so that each one may be moved to contribute his own benefits, setting aside those of others. Nor should the payment of wages, given for the sake of alms, be excluded from this number of good deeds; to which pertains that of Christ: "But yet that which remaineth, give alms: and behold, all things are clean unto you." (3). Indeed, socialists seize upon this and remove it from the midst, as if it were an injury to the nobility inherent in man. But if it is done according to the prescriptions of the Gospel (4), and according to Christian custom, it neither fosters the pride of the givers, nor brings shame to those who receive. Rather, it is so far from being improper, that it rather fosters the bond of human society, promoting the relationship of duties among men. For no one is so rich that he does not need anyone, nor is anyone so poor that he cannot be of some use to another: it is natural that men should be able to help each other, both confidently and willingly. — Thus, justice and charity, being bound together, wonderfully maintain the fabric of human society, according to the just and merciful law of Christ, and providentially lead each member to its own and the common good. Moreover, it must be commended that the working people are assisted not only with temporary aid, but also with a certain, constant system of institutions; and likewise, charity should be turned to praise; for it will be more certain and firmer for those in need. It is all the more worthy of praise, that those who practice arts or engage in labor, should be so formed in frugality and providence, that they may provide for themselves, as well as for the course of their lives.

(1) Mark VIII, 2.

(2) Acts X, 38.

(3) Luke XI, 41.

(4) Matthew VI, 2-4.

[*Latin ed. p. 392*]

592 ENCYCLICAL LETTER: These matters, at least in part, concern those who are consulted. Such a purpose not only elevates the wealthy in their duty towards the working class, but also honors the working class itself; for while it encourages them to strive for a more favorable situation, it also protects them from dangers and restrains the excesses of their desires, and invites them to the cultivation of virtue. Therefore, since it is of such great utility and so appropriate for the times, it is certainly worthy of the eager and prudent efforts of those who are devoted to the good. Let this endeavor of Catholics to alleviate and improve the condition of the people be entirely in harmony with the spirit of the Church and may it respond most fittingly to its enduring examples. It matters little whether those things which contribute to this are called by the name of "popular Christian action" or "Christian democracy"; provided that the documents entrusted to us, with due respect, are preserved intact. But it matters greatly that, in this matter of such importance, the minds, wills,

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and actions of Catholics are one and the same. Nor is it unimportant that this action itself, with the support of many people and resources, be increased and expanded. Especially those benevolent works should be encouraged which, by reason of their location, wealth, and the cultivation of intellect and spirit, possess a certain authority in the state. If these works are lacking, scarcely anything can be accomplished that truly benefits the desired advantages of public life. Indeed, the path to this goal will be all the more certain and swift, the more the efforts of many outstanding citizens are combined. But let those who are involved consider whether they wish to completely neglect the fate of the less fortunate, or whether they are bound by duty; for each person lives not only for his own benefit in the state, but also for the common good: so that those who cannot contribute to the greatest common good in any way, may contribute more generously those who are able. The importance of this duty is demonstrated by the excellence of the benefits received, which must, in turn, be attributed to the most generous Giver, God. This is also a warning from the past, which, if a remedy is not applied in time, can sometimes erupt to the detriment of all classes: for he who neglects the cause of the unfortunate people acts imprudently, both towards himself and towards the state. But if this social action, carried out in a Christian manner, is widespread and sincere, it will certainly not happen that those institutions, which have long existed and flourished through the piety and foresight of our ancestors, will wither away or be replaced by new institutions. For these and those are, as it were, of the same...

[*Latin ed. p. 393*]

Moved by the counsel of religion and charity, and since nothing in itself contradicts these, these matters can indeed be suitably arranged and harmonized, so that, with the help of worthy endeavors, it may be more fitting to address the needs of the people and the daily, graver dangers.

Indeed, the situation cries out, vehemently cries out, for united efforts and strength; for when the burden of troubles is seen to be so great, and the dangers of disturbances loom large, especially from the growing power of socialists, formidable divisions arise. These skillfully infiltrate the body of the state: in the darkness of secret meetings and openly in the light, by word and by writing, they incite the multitude to sedition; they despise the discipline of religion, neglect their duties, extol only rights, and daily agitate the crowds of the poor, who, because of their hardships, are more easily deceived and led astray.

It is a matter concerning both the state and religion; both must be held sacred and defended by all good men. In order that this concord of wills may be achieved, all must abstain from causes of contention that offend the mind and divide. Therefore, in the writings of periodicals and in public sermons, certain more subtle questions, which, since they are not easily

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resolved, also demand a keen intellect and not commonplace study, should be silenced. It is certainly human to hold diverse and differing opinions on many things; but those who sincerely seek the truth should, even in matters still open to debate, maintain equanimity, mutual respect, and moderation; so that, even when opinions differ, wills may not also be divided. Whatever one may choose to believe in matters that do not reject doubt, let him always conduct himself in such a way that he may devoutly wish to be obedient to the Apostolic See. And this action of Catholics, whatever it may be, will proceed with greater effectiveness if all their associations, while preserving their own rights, move forward with a single, common guiding force. We desire that this institute, often praised by us, which is established by Catholic Congresses and associations, may accomplish these things in Italy, and to which Our Predecessor and We ourselves have entrusted the care of guiding and moderating the common action of Catholics, under the auspices and guidance of the sacred Pastors. Furthermore, let this also be done in other nations, if there is any particular group there to which this task has been legitimately entrusted.

[*Latin ed. p. 394*]

394 ENCYCLICAL LETTER. In all this matter, which is entirely connected with the interests of the Church and the Christian people, it becomes clear what those who perform sacred duties ought to strive for, and how much doctrine, prudence, and charity are required to achieve it. It has seemed opportune to us, men appointed from the clergy, to affirm, as circumstances and times demand, that it is fitting to engage with the people and to serve them in this way, not once, but repeatedly. Indeed, we have often, in recent years (1), praised this very loving care for the people through letters addressed to Bishops and other men of the sacred order, and we have said that it is proper for both orders of clergy to act in this way, provided that they perform their duties with great caution and prudence, following the example of holy men. That poor and humble Francis, that father of the afflicted, Vincent of Paul, and many others remembered in the entire Church, were accustomed to temper their constant care for the people in such a way that, while not neglecting the needs of others, they also cultivated their own souls with equal diligence, striving for the perfection of all virtues.

— It is fitting here to express something more explicitly, in which not only sacred ministers, but also all who are devoted to the cause of the people, may rightly merit praise for this, not difficult, work. Namely, if they strive, as the opportunity arises, to impress upon the minds of the people, especially through fraternal discourse, the following: that they should beware of sedition and seditious people; that they should respect the rights of others; that they should show due respect and service to their lords; that they should avoid the habit of domestic quarrels and cultivate a fruitful

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life in many ways; that they should above all cherish religion, and in its midst find solace in the hardships of life. To achieve these goals, it is certainly helpful to recall the excellent example of the Holy Family of Nazareth and to commend it, or to propose the examples of those whom the very vicissitudes of fortune have led to the heights of virtue, or even to foster hope for a greater reward in the life to come. Finally, we must again and more seriously emphasize that, whatever counsel individuals or groups of people undertake in this matter, they must always remember to obey the authority of the Bishops. Let them not deceive themselves with a more vehement zeal for charity; for, if they do, they may incur a debt (1) To the General Minister of the Order of the Friars Minor, on the 25th day of the month of November, in the year 1673.

[*Latin ed. p. 395*]

It is not sincere, nor does it produce solid benefit, nor is it pleasing to God, when obedience is urged on by mere outward appearance. God delights in those who, setting aside their own opinions, listen so attentively to the prelates of the Church that they hear them as if they were their own voices; and He is wont to bring to a happy conclusion, with His benign grace, even difficult matters undertaken for their sake. To these, let suitable examples of virtue be added, especially those which demonstrate the Christian man to be averse to idleness and pleasures, generously contributing to the needs of others, steadfast in adversity, and unconquered. Indeed, these examples have great power to stir up salutary sentiments in the people; and they have even greater power when they adorn the lives of outstanding citizens. We therefore urge you, Venerable Brothers, to diligently attend to the needs of people and places, according to your prudence and ability; and to communicate with each other, in accordance with custom, concerning these matters. May your vigilance and authority be effective in regulating, restraining, and opposing, so that, under no pretext whatsoever, the vigor of the sacred discipline may be weakened, nor the order disturbed which Christ established for His Church. Therefore, let the work of all Catholics be conducted in a right, harmonious, and progressive manner, so that the true tranquility and prosperity of the people may flourish, with the Church as the guiding and supporting force; whose most sacred duty it is to admonish each individual according to Christian precepts, to unite the rich and the poor in fraternal charity, and to strengthen spirits in the face of the adversities of life. Let the blessed Paul's exhortation to the Romans, full of apostolic charity, confirm and strengthen what We have prescribed and desired: "I urge you therefore, to be reformed in the renewal of your mind... Let him who gives, do so with simplicity; him who presides, with diligence; him who shows mercy, with cheerfulness. Let love be without hypocrisy. Abhorring evil, cleaving to good; loving one another with fraternal love; outdoing one another in honor; not being sluggish, but fervent in spirit;

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rejoicing in hope; enduring in tribulation; continuing in prayer; communicating to the needs of the saints; practicing hospitality. Rejoicing with those who rejoice, and weeping with those who weep; having the same affection for one another; To no man rendering evil for evil. Providing good things, not only in the sight of God but also in the sight of all men" (1). (1) XII, 1-17.

[*Latin ed. p. 396*]

396 ENCYCLICAL LETTER May the Apostolic blessing, which We impart to you, Venerable Brothers, and to your clergy and people, whom We love most dearly in the Lord, be a foretaste of good things to come. Given in Rome, at Saint Peter's, on the 18th of January, in the twenty-third year of Our Pontificate. LEO XIII PP. FROM THE CONSISTORY ACTS FROM THE CONSISTORY HELD ON DECEMBER 17, 1900. ADDRESS OF HIS HOLINESS POPE LEO XIII. Venerable Brothers, We have now almost completed the pious observances of the year in the city; and, reflecting on the time that has passed, We clearly feel and understand how much this owes to the divine benevolence. Indeed, the maternal Church, through God's grace and beneficence, has achieved a most prosperous outcome in the indulgences granted and the hopes conceived. Concerning the popular piety, which during this entire time in the city has been so clearly manifested and so abundant, it is certainly impossible to speak of it adequately here and now, unless you yourselves, Venerable Brothers, who have been witnesses and spectators, were to do so. Therefore, We prefer to urge and implore you to, with hearts united in charity, earnestly pray to God that He may complete the work that He has begun, and that He may be the guardian and helper of the fruits that this sacred year has produced, so that they may not be lost, but may remain and flourish abundantly. This is what the Church desires; this is the greatest of Our wishes in Our advanced age. Now, the final part of the sacred celebration requires that the doors of the basilicas be closed according to the ancient custom. We, following the example of Our predecessors, will, with God's help, perform this in the Vatican basilica the day before Christmas.

[*Latin ed. p. 397*]

FROM THE CONSISTORY ACTS 597, thus does the Lord. And since it is customary on the same day to perform the same ceremony at the other Patriarchal Basilicas by the Most Reverend Cardinals, therefore we choose and appoint our Legates, our Venerable Brothers Lucido Maria, Most Reverend Cardinal Parocchi, Bishop of Porto and Santa Rufina, who shall close the Holy Door of the Basilica of Saint Paul the Apostle in our name; also Franciscus, with the title of Santa Maria in Arameli, Most Reverend Cardinal Satolli, Archpriest of the Basilica of the Lateran, who shall close the Holy Door of that same Basilica in our name; and finally Vincentius, Most

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Reverend Cardinal Vannutelli, Bishop of Praeneste, Archpriest of the Basilica of Liberian, who shall close the Holy Door of that same Basilica in our name. In the name of the Father, and of the Son, and of the Holy Spirit. Amen. This is indeed a joyful and suitable occasion; yet, more pressing and sorrowful matters weigh upon us. You know the greatest cause of our concern lies within the domestic sphere. How can we not be troubled, how can we not grieve, at the discord between the Italian state and the Church? If many grave matters have burdened us in the past, we fear even graver ones daily from hostile minds and oppressive laws. Above all, it is calamitous that those things which seek to strip the Pope of his just and legitimate authority, and which are joined with the freedom of his sacred office, continue to persist, and that he may be subjected to foreign power and alien judgment. This matter has renewed in us a bitter feeling, as was seen in the recent events concerning the administration of Italian affairs, when we witnessed the transfer of the government of the City [Rome] from one to another, as if it were rightfully sought, which is an injustice perpetrated. Therefore, surrounded by such grave inconveniences, and moved by a sense of duty, we lament the continuation of this injustice. We wish to affirm that the right of the Apostolic See remains safe and unharmed; and that it cannot, in any way, be interrupted or diminished by the passage of time, nor by the succession of those who possess it. Furthermore, turning our thoughts and care to our office, we deem it fitting to refer to you, on this very day, the matter of appointing the Head of the Chaldean Church of Babylon. Since the Venerable Brother Georgius Ebed-Jesu Khayyath, the last Patriarch of that Church, passed away last November, the Chaldean Archbishops and Bishops, lawfully assembled in a Synod in the temple of Saint Meskinta in the city of Mausiliensis.

[*Latin ed. p. 398*]

398 FROM THE CONSISTORY ACTS, the most reverend brother Joseph Emmanuel Thomas, Bishop of Seerthen, is duly appointed to the vacant see by the votes of the suffragan bishops. Regarding the whole matter, the suffragan bishops sent letters to Us; likewise, the elected Patriarch sent a letter, professing his Catholic faith and his obedience to the Roman Apostolic Church. In these same letters, they both request that We confirm the election and bestow the sacred Pallium upon the elected, by Our apostolic authority. Indeed, the most reverend brother Joseph Emmanuel Thomas has demonstrated many virtues in his duties up to this day, having faithfully carried them out, especially in the See of Seerthen, which he has administered prudently and wisely for many years. Therefore, it was fitting that We should consider him worthy of a higher position within the Church, and for the greater good of the common welfare, more so than before. Wherefore, We rejected the case before Our Sacred Council, which is entrusted with the propagation of the Christian faith and the affairs of the Eastern Churches,

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and, with the opinion of that very Sacred Council, We have decided to confirm the most reverend brother mentioned above as Patriarch of Babylon of the Chaldaeans, and to grant him the Pallium, taken from the body of the blessed Peter, today. Therefore, by the authority of Almighty God, and of the Holy Apostles Peter and Paul, and by Our own authority, We confirm and approve the election or petition made by the reverend brothers of the Chaldaic rite concerning the most reverend brother Joseph Emmanuel Thomas, appointing him as Patriarch and Pastor of the Church of Babylon of the Chaldaeans, as will be expressed in the Consistory decree and schedule: notwithstanding any objections to the contrary. In the name of the Father, and of the Son, and of the Holy Spirit. Amen. LEO XIII, POPE. Most Holy Father, following the aforementioned report, the following Churches are presented: The titular Episcopal Church of Caesarea Philippi, under the Archbishop of Tyre, is vacant, due to the promotion of the Reverend Father Cyril Macaire to the Patriarchal Church of Alexandria of the Copts, with the favor of the Reverend Father Julian Cabras, a priest of the archdiocese of Turritana, who was also appointed as an Auxiliary to the Reverend Father Didacus Marongiu, Archbishop of Turritana. The Metropolitan Church of Mutina, with the perpetual commendation attached to it of the Abbey of Saint Sylvester of Nonantola, which belongs to no diocese, is vacant, due to death.

[*Latin ed. p. 399*]

From the Consistorial Acts:

The Most Reverend Charles Borgognoni, the last Archbishop and Abbot, having passed away, leaves behind the favor of the Reverend Father Natalis Bruni, a priest of the Placentinae diocese. He was born of legitimate, Catholic, and honorable parents in the place commonly called Nociveglia, in the Placentinae diocese, and, having reached the forty-fourth year of his age, was admitted among the students of the College of Saints Ambrose and Charles in Rome, and has recently been awarded a doctorate in sacred theology.

The Metropolitan Church of Bonaera, or Buenos Aires, in the Republic of Argentina, is vacant, due to the death of the Most Reverend Uladislai Castellano, the last Archbishop, leaving behind the favor of the Reverend Father Mariano Anthony Espinosa, Bishop of Plata.

The Cathedral Church of Daman, to which the title of Archbishop of Cranganore is attached, is vacant, due to the death of the Most Reverend Anthony Peter da Costa, the last Bishop, leaving behind the favor of the Reverend Father Sebastian Joseph Pereira, titular Bishop of Epiphanius, for presentation to the Most Serene Charles I, King of Portugal and the Algarves, of the faithful Episcopal titular Church of Colossae, under the Archbishop of Laodicea.

The Cathedral Church of Viterbo and Toscanella is vacant, due to the

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transfer of the Reverend Father Anthony Mary Grasselli to the united Cathedral Sees of Viterbo and Toscanella, leaving behind the favor of the Reverend Father Henry Marx, a priest of the Vratislaviensis diocese. He was also appointed as an Auxiliary to Bishop Emi Kopp of Vratislavia.

The Cathedral Church of Paderborn is vacant, due to the promotion of the Reverend Father Theophilus Hubert Simar to the Metropolitan See of Cologne, leaving behind the favor of the Reverend Father William Schneider, a priest of the Paderbornensis diocese, elected or nominated by the Reverend Monsignors and the Chapter of Paderborn, according to the Apostolic Letters "De salute animarum."

The titular Episcopal Church of Arethusin, under the Archbishop of Apamea, is vacant, due to the death of the Most Reverend Hyacinth Nicholas, the last Bishop, leaving behind the favor of the Reverend Father Anthony Joseph Gomes Cardoso, a priest of the archdiocese of Braga.

The titular Archiepiscopal Church of Theodosiopolis is vacant, due to the death of the Most Reverend Joseph Sembratowicz, the last Archbishop, leaving behind the favor of the Reverend Father Peter Maglione, Bishop of Caputaquensis and Vallensis.

The Cathedral Churches of Caputaquensis and Vallen are vacant, due to the promotion of the Reverend Father Peter Maglione to the titular Archiepiscopal Church of Theodosiopolis, leaving behind the favor of the Reverend Father Paul Jacuzio, a priest of the archdiocese of Salerno.

The titular Episcopal Church of Sarepta, under the Archbishop of Tyre, is vacant, due to the death of the Most Reverend Paul Palasthy, the last Bishop, leaving behind the favor of the Reverend Father Philip Genovese, a priest of the diocese of Cava de' Tirreni.

The Church of Plata in the Republic of Argentina, in South America, is vacant, due to the promotion of the Reverend Father Mariano Anthony Espinosa to the Metropolitan See of Bonaera, leaving behind the favor of the Reverend Father John Nepomucene Terrero, titular Bishop of Delcus.

The titular Episcopal Church of Nyssa, under the Archbishop of Caesarea, is vacant, due to the succession of the Reverend Father Bartholomew Bacilieri to the Cathedral See of Verona, leaving behind the favor of the Reverend Father Francis Giacci, a priest of the Tu-

[*Latin ed. p. 400*]

400 FROM THE CONSISTORY ACTS. He was also appointed as a Titular Bishop to assist the Most Reverend and Right Reverend Lord Seraphin, Cardinal Vannutelli, Bishop of Tusculum, in the Metropolitan Church of Calaritan, which was vacant due to the death of the Most Reverend Father Paul Joseph Mary Serci Serra, the last Archpriest of that church, who died outside the Roman Curia, in favor of the Reverend Father Peter Balestra of the Order of the Conventual Franciscans, Bishop of Acqui. The Cathedral

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Church of Mazaria was vacant, due to the death of the Most Reverend Father Antoninus Mary Saeli, the last Bishop of that church, who died outside the Roman Curia, in favor of the Reverend Father Caietan Quattrocchi, Titular Bishop of Europus. The Titular Episcopal Church of Eirenopolis, under the Archbishop of Seleucia, was vacant, due to the death of the Most Reverend Father Aloysius Matera, the last Bishop of that church, who died within the Roman Curia, in favor of the Reverend Father Anatolius Nowak, Priest of the Diocese of Cracow. He was also appointed as a Titular Bishop to assist the Reverend Father John Kniaz de Kozielsko Puzyna, Prince-Bishop of Cracow. The Metropolitan Church of Mechoacan, in the Republic of Mexico, was vacant, due to the death of the Most Reverend Father Ignatius Arciga, the last Archbishop of that church, who died outside the Roman Curia, in favor of the Reverend Father Athenogenes Silva, Bishop of Colima. The Cathedral Church of Campeche, in the Republic of Mexico, was vacant, due to the transfer of the Reverend Father Francis Planarte to the Cathedral See of Cuernavaca, in favor of the Reverend Father Romulus Betancourt, Priest of the Archdiocese of Mechoacan. The Cathedral Church of Yucatan, or Emerita, in the Republic of Mexico, was vacant, due to the transfer of the Reverend Father Joseph Alva to the Cathedral See of Zacatecas, in favor of the Reverend Fathers Martin Tritschler and Cordova, Priests of the Diocese of Tlaxcala. The Cathedral Church of Rimini was vacant, due to the promotion of the Reverend Father Dominic Fegatelli to the Titular Archiepiscopal Church of Scythopolis, in favor of the Reverend Father Vincent Scozzoli, Priest of the Diocese of Forlì. The Titular Episcopal Church of Samosata, under the Archbishop of Hierapolis, was vacant, due to the death of the Most Reverend Father Gerard Soubrier, the last Bishop of that church, who died outside the Roman Curia, in favor of the Reverend Father Joseph Medardi Kohl, Priest of the Diocese of Steinamanger. He was also appointed as a Titular Bishop to assist the Most Reverend and Right Reverend Lord Claudius, Reverend Fathers Sylvester and Martin in Mons, Cardinal Vaszary, Archbishop of Gran. The Metropolitan Church of Lviv, of the Latin Rite, was vacant, due to the death of the Most Reverend Father Severin Morawski, the last Archpriest of that church, who died outside the Roman Curia, in favor of the Reverend Father Joseph Bilczewski, Priest of the Diocese of Cracow. The Titular Archiepiscopal Church of Scythopolis was vacant, due to the death of the Most Reverend Father Marian Gavasci, the last Archbishop of that church, who died outside the Roman Curia, in favor of the Reverend Father Dominic Fegatelli, Bishop of Rimini. The Cathedral Church of Liburnia was vacant, due to the death of the Most Reverend Father Julius Matteoli, the last Bishop of that church, who died outside the Roman Curia, in favor of the Reverend Father Sabatino Giani, Priest of the Diocese of S. Miniato. The Metropolitan Church of Lviv, of the Greco-Ruthenian Rite, together with the Archiepiscopal Church of Halic, was vacant, due to the death of the Most Reverend

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Father Julian Kuilowski, the last Archbishop of that church, who died outside the Roman Curia, in favor of the Reverend Father Andrew Szeptycki, of the Order of Saint Basil the Great, Bishop of Stanislaus, of the same Greco-Ruthenian Rite.

[*Latin ed. p. 401*]

FROM THE CONSISTORY ACTS:

The Cathedral Churches of Aquinate, Soran, and Pons are perpetually and canonically united. They are vacant due to the death of the Most Reverend Lucian Bucci, the last Bishop of those sees, outside the Roman Curia. This is with the favor of the Reverend Anthony Iannotta, a priest of the diocese of St. Agatha of the Goths.

The Cathedral Church of Leon, in the Republic of Mexico, is vacant due to the promotion of the Reverend Father James Garza Zambrano to the Metropolitan See of Linares, with the favor of the Reverend Leopold Ruiz, a priest of the archdiocese of Mexico.

The Metropolitan Church of Salzburg is vacant due to the death of the Most Reverend John, formerly a Cardinal Priest of the Holy Roman Empire, the last Archbishop, who died outside the Roman Curia. This is with the favor of the Reverend John Katschthaler, the titular Bishop of Cybistra, who was elected or nominated by the Reverend Chapters and Canons of Salzburg to be Archbishop.

The Cathedral Church of Premislien, of the Latin Rite, is vacant due to the death of the Most Reverend Luke Solecki, the last Bishop of that see, who died outside the Roman Curia. This is with the favor of the Reverend Joseph Sebastian Pelczar, the titular Bishop of Mileopolis.

The Patriarchal Church of Babylon of the Chaldeans is vacant due to the death of the Most Reverend George Ebed-Iesu Kheyyath, the last Patriarch, who died outside the Roman Curia. This is with the favor of the Reverend Joseph Emmanuel Thomas, the Bishop of Seert of the Chaldeans, who was elected or nominated by the Reverend Catholic Bishops of the same rite, duly assembled in the cathedral church of St. Meskinta, in the city of Mossul.

FROM THE SECRETARY'S OFFICE:

A BRIEF, by which a hundred days of indulgence are granted, to be earned each day by reciting the following prayer for the conversion of the Jews and the Turks.

LEO XIII, for the perpetual memory of this matter.

Since, as has been reported to Us, a pious prayer written by a priest of the Congregation of Clerics Discalced of the Most Holy Cross and Passion

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of Jesus Christ, for the conversion of the Jews and the Turks, has been composed, and prayers have been added to Us that We might grant indulgences to this same prayer, the example of which We have ordered to be preserved in the archives of the Secretary's Office, and whose first words are "O most beloved and amiable Heart of Jesus," and whose last words are "for all eternity," We, so that the Christian people may pray to God for the salvation of their neighbors, grant to all the faithful of both sexes, who, with at least a contrite heart, recite the aforementioned prayer on any given day...

[*Latin ed. p. 402*]

402 From the Brief of the Secretariat, provided that the translation is faithful, we grant that, on any day, one hundred days of the penances prescribed to them, or of any other debts of penances, may be remitted, according to the usual form of the Church. We also grant that these remissions of penances may be applied to the souls of the Faithful detained in Purgatory, as a form of suffrage. These present [decrees] shall remain perpetually valid, with the exception of the tenor of Our most recent Constitution concerning the suspension of Indulgences for the year of the approaching Jubilee. We decree that these [decrees] shall be of no effect unless a copy thereof is presented to the Congregation of Indulgences and Sacred Relics. Furthermore, the same faith shall be given to these present letters, or to printed copies thereof, signed by the hand of a public Notary and sealed with the seal of a person holding an ecclesiastical office, as would be given to the present [decrees] if they were exhibited or shown. Given in Rome, at St. Peter's, under the Fisherman's Ring, on the 18th of December, 1899, in the twenty-second year of Our Pontificate. For the Lord, CARDINAL MACCHI, NICOLAUS MARINI, Substitute. * The present copy has been presented to the Sacred Congregation of Indulgences and Sacred Relics. Given in Rome, from the Secretariat of the same Sacred Congregation, on the 11th of January, 1900. JOSEPH M. Can. COSELLI, Substitute.

PRAYER to the Sacred Hearts of Jesus and Mary for the conversion of the Jews and the Turks. O most loving and most amiable Heart of Jesus, prostrate before You, we ardently implore You to pour forth into the Church and into the world those rivers of living water that flow from You, as from an inexhaustible fountain, to rise to eternal life. O Jesus, Son of David and Son of the living God, have mercy on us, Your children, of Your pierced Heart! Indeed, do not deprive us, as we deserve for our sins and ingratitude, of the gift of Your Most Holy Faith; do not hide yourselves from us, who...

[*Latin ed. p. 403*]

FROM THE REGISTER OF BRIEF NOTES 403.

O Lord, you who are our true light and our only hope, remain with us, for

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the shadows of error grow ever denser, and fill us with that fire of charity which you came to bring to the earth, and which you desire to kindle in the hearts of all men. O Jesus, sacrificed for us upon the Altar of the Cross, draw us to yourself, and with us, draw also the Jews and the Turks, for whom you still poured forth your Blood even to the last drop. Pray, let this Blood, once invoked in malediction by some, descend upon their heads in blessing, and save them! Let this Blood, despised and profaned by others, send forth a cry of mercy for them, and purify them! Assist us, O Lord, we implore you, assist the poor children of Isaac and Ishmael, for whom you still wished to sustain your most sorrowful Passion and Death. Let those most holy Wounds, which you still bear in your Hands, Feet, and Side, as the price of our common redemption, speak in their favor. Let the voices that come forth from the Heart of your most sweet Mother join with theirs. This Heart, pierced by the sword of sorrow, immersed in a sea of pains, martyred at the foot of the Cross, we offer to you, O Jesus, for the salvation of so many unhappy souls. O sweet Heart of Mary, speak to Jesus what we do not know, nor can we say, and He will hear you... And if, to overcome the resistance of those for whom we pray, a miracle is necessary, this, O Virgin Immaculate, we ask of you, for the immense love that you bear for Jesus. Ah! yes, deign to appear to the Jews and the Turks, as you already appeared in Ratisbon, and at a sign of your right hand, they, as he, will be converted... Oh! may that day come quickly, in which the most holy Trinity may reign for you in all hearts, and may all know, love, and adore, in spirit and in truth, the blessed Fruit of your womb, Jesus, who lives and reigns with the Father and the Holy Spirit, world without end. So be it.

[*Latin ed. p. 404*]

BRIEF, by which an indulgence of three hundred days is granted to those who recite the following prayer dedicated to Mary, Help of Christians. LEO XIII. For the perpetual memory of this event. Having received the prayers offered to Us by Our beloved son, Caesar Cagliero, General Director of the Salesian Congregation, and approving them with benevolence, and confident in the mercy of Almighty God and in the authority of the Apostles Peter and Paul, We grant to all and each of the Faithful, of both sexes, living in every part of the world, who, with a contrite heart, recite in any language, provided the translation is faithful, the prayer dedicated to Mary, Help of Christians, which in the vernacular begins with the words: "O most holy and immaculate Mary" and ends with the words: "we can go to make our crown in the beautiful paradise. So be it," according to the model approved by the Congregation of Rites and which We order to be kept in the Secretarial Archive of Briefs, We remit three hundred days from the number of days of penance, as is customary in the Church, through the present document, and We grant to them that, by this Partial Indulgence, they may expiate the faults and penalties of their past life, if they so desire. However, We

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decree that an authentic copy of these Letters be presented (which, if it is not done, We wish to be considered as null and void) to the Secretarial Office of the Congregation for Indulgences and Sacred Relics, according to the decree issued by that same Congregation on January 19, 1756, and approved by Our Predecessor, Pope Benedict XIV, on the 28th day of that month; and that, with regard to copies or transcripts, even printed ones, signed by a public Notary and sealed with the seal of a person holding an ecclesiastical office, the same faith be given to them as would be given to the present document if it were exhibited or shown. Notwithstanding any contrary provisions. These present documents are valid for all times, to come, with the exception of the tenor of Our Constitution regarding the suspension of Indulgences during the year of the universal Jubilee. Given at Rome, at St. Peter's, under the Fisherman's ring, on the 10th day of March, in the twenty-third year of Our Pontificate. L. * S. For the Most Reverend Cardinal Macchi, Nicholas Marini, Substitute.

[*Latin ed. p. 405*]

FROM THE SECRETARY'S REGISTER 405: A copy of these Apostolic Letters has been presented to the Sacred Congregation for Indulgences and Sacred Relics. In witness whereof. Given in Rome, from the aforementioned Secretary, on the 17th of March, 1900. Ios. M. Can. COSELLI, Substitute.

A PRAYER TO MARY AUXILIATRESS.

Most Holy and Immaculate Virgin Mary, our most tender Mother and powerful Help of Christians, we consecrate ourselves entirely to your sweet love and to your holy service. We consecrate to you our minds and their thoughts, our hearts and their affections, our bodies and their feelings, and with all our strength, and we promise always to strive for the greater glory of God and the salvation of souls.

You, meanwhile, O incomparable Virgin, who have always been an Auxiliatrix of the Christian people, deign to continue to show yourself as such, especially in these days. Humiliate the enemies of our holy Religion and render vain their wicked intentions. Illuminate and strengthen the Bishops and Priests, and keep them always united and obedient to the Pope, the infallible Master; preserve the heedless youth from irreligion and vice; promote holy vocations and increase the number of the Sacred Ministers, so that through them the kingdom of Jesus Christ may be preserved among us and extended to the furthest limits of the earth.

We also pray you, O sweetest Mother, that you may always turn your merciful gaze upon the heedless youth exposed to so many dangers, and upon the poor sinners and the dying; be for all, O Mary, sweet hope, Mother of Mercy, and Gate of Heaven.

But also for ourselves, we implore you, O great Mother of God. Teach us

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to imitate your virtues in ourselves, especially angelic modesty, profound humility, and ardent charity, so that, as far as is possible with our conduct, our words, and our example, we may represent the living Jesus Christ, your Son, in the midst of the world, and make you known and loved, and through this means we may succeed in saving many souls.

[*Latin ed. p. 406*]

406 From the Most Holy Council, also, O Mary, Help of Christians, since we are all sheltered under your maternal mantle, may it be that in temptations we invoke you promptly with confidence; may it be that the thought of you, so good, so lovable, so dear, the memory of the love you bear to your devoted, may be such a comfort as to render us victorious against the enemies of our souls, in life and in death, so that we may go to place a crown upon your head in the beautiful Paradise. So be it. FROM THE HOLY CONGREGATION OF THE COUNCIL OF MARSORUM, under the laws thereof, on the 1st of September, 1900. Session 22, chapter 36, concerning Reforms. COMPENDIUM OF FACTS. John Ricciotti, archdeacon of the Cathedral Church of Marsorum, in the year 1898, having appointed Canon Dominic Tabassi as the executor of his will, bequeathed five hundred ducats, which, in due manner, are added to the chapter's funds, so that succeeding archdeacons may receive daily distributions, just as the other Canons do. Now, in order that the state of affairs may be better understood, certain things must be stated beforehand. Indeed, the Chapter of the Cathedral Church of Marsorum seems to consist of ten Canons, and an Archdeacon, who holds the highest, and indeed the only, dignity in the diocese. Currently, four canonries are vacant, so that the same Archdeacon and only six Canons form the Chapter. The Canons observe that the newly elected Archdeacon has no voice in the meetings; yet, in some more serious matters, his opinion has been sought.

[*Latin ed. p. 407*]

MARSORUM 407. Therefore, after the death of the Archdeacon, I. Ricciotti, and when Aloysius Colantoni, a Canon, had assumed the dignity of Archdeacon on June 29th, of the year 1899, nothing was more important to him than to claim, as his first legacy, that which had been left by his predecessor. Nevertheless, while the present Archdeacon was endeavoring to carry out the last will of his predecessor, he encountered two opponents, namely, the Canons of the Cathedral Church, namely, Gabriel Cipriani, Canon of Theology, and also Canon Luke Rossi, of the Penitentiary. For these contend that the Chapter, having met on January 1st of the year 1899 for this purpose, received the legacy of Ricciotti only under the condition that the Archdeacon should not demand from the Chapter in the daily distributions made by the Chapter itself, more than 72 *librae*, after deducting the offerings, and 24 *libellae* for expenses. They maintain that

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it is not permissible to understand the will in any other way, since it is known that the Canons receive more than 72 *librae* in these distributions. Furthermore, they contend that, when the Archdeaconate is vacant, the aforementioned *summa* should revert to the Chapter; and also that portion of the revenues which the Archdeacon, due to his absence, does not at all benefit from. Moreover, these same Canons point out: a) that the Archdeacon has no right, with regard to the third part of his benefice, to record his own absences from the choir; b) that it cannot be maintained that the Archdeacon's distributions, because of his higher dignity, should be greater than those enjoyed by the Canons, as he himself endeavors to defend; and even more so, since by custom the Archdeacon receives an equal share as the other Canons in the extraordinary distributions, namely, in Masses, Triduums, Vespers, etc.; c) finally, they maintain that, since the Archdeaconate was vacant from January 1st of the year 1899 to June 29th of the same year, it would have been proper for the Chapter to enjoy half of the aforementioned legacy. Therefore, they say, those words of the legacy, « *affinchè gli Arcidiaconi miei successori abbiano diritto alle distribuzioni quotidiane come gli altri canonici* », as...

[*Latin ed. p. 408*]

408 The nature and purpose of the legate itself, as well as the intention of the one who grants the legacy, demand that it be understood in such a way that the income from the legacy be applied to providing distributions to the Archdeacon, who previously had none. On the contrary, the Archdeacon strives to assert his rights, insisting that the legacy of Ricciotti should be exclusively his, and that the Chapter should not have any right to benefit from it, except in the case of the Archdeaconry becoming vacant. Furthermore, since he himself has no right to the Chapter's mass, but enjoys the right to offer his own mass, and indeed independently, or autonomously, since the year 1860, as the Chapter itself recently acknowledged; it will certainly be permissible for him to report those of his own who are absent from the choir. And if, in the absence of the Archdeacon, any portion of the aforementioned legacy remains, certainly the Chapter will have no right to benefit from it, but it must be applied to the fabric of the Church or to some pious purpose, according to the Council of Trent, Session XXII, chapter 3, on Reform. This is because we are dealing with dignities that have masses for distributions distinct from the Chapter's mass. Moreover, he seeks to assert certain rights that currently seem not to belong to him. First, that the Chapter be granted the faculty to convene, and to exercise its right to decree within it. Secondly, that two of the younger canons be present to assist him in the performance of sacred rites, according to definitive decisions of the Sacred Roman Congregations. Thirdly, that he receive more than the other canons in the performance of funerals, and in the holding of supplications, as is evident from the customs and practices approved by

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the Chapter itself in the year 1891; and that these same two canons wish to deprive him of one-third of these distributions. Finally, he strongly desires that the discipline of the Chapter, which has collapsed in the performance of sacred rites, be restored to its former state, especially since some of the canons themselves seem to have forgotten the dignity they enjoy within the Chapter. After considering the complaints regarding certain matters that cannot now be brought into formal controversy, a judicial inquiry is instituted regarding the legacy left by Archdeacon Ricciotti, and the rights derived from it, respectively, by the Arch-

[*Latin ed. p. 409*]

MARSORUM, 409, concerning the deacon, or rather, the chapter, and regarding the juridical condition of the Archdeacon within the Cathedral Chapter of Marsorum, about which a discussion must be held first, so that a path may be cleared for the resolution of other doubts. Indeed, the Archdeacon desires and strives that his anomalous status within the Cathedral Chapter be made clear to the Most Reverend Fathers, from which, he asserts, he suffers the greatest detriment, namely, to the discipline of the chapter. For the Archdeacon, up to now, participates in choral functions, but he has no part in the chapter meetings and in truly chapter acts, in which he exercises no authority whatsoever, although he is sometimes called to chapter meetings, but merely for the sake of honor, with only a consultative vote attributed to him. – Meanwhile, the Archdeacon laments that abuses have arisen within the Cathedral Chapter and that scandals are occurring in the very sacred duties which he could easily and willingly restrain if he were to use the necessary authority. Synopsis of the Discussion. Since the disputants have not appointed procurators, either to contest the doubts or to embellish their arguments, therefore, by office, the questions are included in these doubts, namely: I. Does the Archdeacon have the right to convene the chapter and to give a decisive vote in chapter meetings, or rather, is it expedient to grant him these rights only in certain cases? II. Should the legacy of Ricciotti be demanded for execution in such a way that the Archdeacon only withholds daily distributions from the revenues of the legacy, or also from the Chapter Mass, to which the legacy of Ricciotti should be added in this case? III. Should the distributions which the Archdeacon does not receive increase for the other canons in proportion to their service or to the fabric of the Church, or should they be applied to ANOTHER PLACE, at the discretion of the Bishop, in this case? With these preliminaries, we must now inquire about the condition of the Archdeacon in the Cathedral Chapter of Marsorum. Indeed, the Archdeacon himself confesses that he

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has never...

[*Latin ed. p. 410*]

410. Although the Sacred Council has ruled on this matter, nevertheless, certain conciliar meetings are cited, in which he himself duly gave his vote, and, according to his own account, these were not advisory, but rather, decisive; hence, he strives to demonstrate that the Archdeacon has a place in the chapter, and that it has been unjustly denied to him up to now. However, from the very testimony of the Archdeacon himself, and also from the accompanying accounts which he presents, and from the unanimous assertion of the other canons, it is undoubtedly clear that the Archdeacon does not have a place in the chapter.

Indeed, this condition is entirely extraordinary in Italy, but it is not far removed from common law. Truly, the Archdeacon is a dignity, and dignities, by ordinary law, do not constitute part of the chapter, since the quality or jurisdiction of a dignity is derived from the benefice to which it is attached; whereas the quality of a canon is derived only from a canonical benefice. Therefore, Leurenius writes in *Forum Eccles.*, in title XI, book III, of the *Decretals*: "Only canons constitute the chapter, or are members of the chapter, so that even superiors, if they are not canons, do not constitute the chapter together with the canons. The same is true of other dignities if they lack a canonical benefice. By common law, dignities are not part of the chapter, unless in their erection, the concession of a stall in the choir and a voice in the chapter is expressly stated, or unless it is provided by statute or custom that they shall be part of the chapter." And Cardinal Petra, in his *Commentaries* on the Constitution of St. Leo the Great, states: "In the secular Church, it is properly said that only canons are part of the chapter (Rota decis. 144 n. 2 part. 19 recentium). Therefore, dignities are excluded from the chapter, although in Italy, by custom, they are said to be part of the chapter... And so, the rule outside of Italy is that dignities are not part of the chapter, while in Italy, they are; but both rules are understood with limitations arising from custom."

Nevertheless, dignities, as if by natural right, have a place in the chapter's functions. Furthermore, among the prerogatives of dignities, the first is to be present in the choir, among the canons.

[*Latin ed. p. 411*]

MARSORUM 4)11 Bouix, in his chapters, page 73, speaking of the prerogatives of dignities, states: "Even when they are not members of the chapter, they precede the canons both in the choir and in other acts outside the chapter" (Cardinal de Luca, *De praerogativis diœcesium*, 19, n. 11). "If they are members of the chapter, they also precede in chapter acts." Learned men strive to discover the historical reason for this special constitution of dignities in relation to cathedral chapters, and they offer various

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accounts, as can be seen in Thomassin, *De veteri et nova discipl.*, Part 1, Book 3, chapter 70. However, this reason, by one means or another, cannot be derived except from their legal condition. Indeed, by Decretal law and by their ordinary function, the dignities possessed jurisdiction over the entire diocese, as explained by Barbosa, *De canonicis*, chapter 4, n. 14 and following, since the dignities fulfilled functions that were later demanded of the Vicargeneral. Therefore, the dignities, just as the Bishop, by ordinary right and by their office, were attached to the Cathedral Church and had a greater part, after the Bishop, in the sacred functions, even though they were not members of the chapter. After the dignities became empty, titles without substance, mere shadows of great names, as they are commonly called in the forum, in order to find some support for their own existence, they easily found refuge in the cathedral chapter, which was honored by the titles of the dignities. Therefore, it is highly commendable that, for a long time in Italia, the custom has been to admit such dignities to the chapter and to include them in the chapter. On this matter, Bouix, I, c., page 59, notes: "It is very fitting to admit dignities into the bosom of the chapter, and it is honorable for the chapter, and not harmful." This is certainly greatly emphasized by the Archdeacon, who is eager to offer his services and to strive to ensure that the discipline of the chapter is firmly observed and that its decor increases day by day. Now, something must be said about the legate Ricciotti. Firstly, it seems impossible to doubt, as asserted by the four canons, whose observations we have just presented, that...

[*Latin ed. p. 412*]

412 From the acts of the legates of the Holy General Council, it does not appear that the Mass was the subject of the dispute, but rather the Archdeacon; however, it is stated that the Mass was mentioned by the legate himself, so that it might be free from the demands of the treasury. Furthermore, since the legate assigned the burden of 24 Masses to the Archdeacon, and also attributed the remaining sum to the legate himself for the purpose of making distributions, it is clear that the legate was the Archdeacon, not the Mass itself. The juridical consequence of this conclusion is this: the distributions which the Archdeacon does not receive should not be increased for others, but should be attributed to a pious cause by the Bishop. Indeed, the Sacred Congregation, in a decree of 7 November 1621, concerning the matter, decided: "Where in a Church there are dignities which have revenues distinct from the Chapter Mass, and a certain portion of which has been assigned for daily distributions, according to the disposition of the Holy Council of Trent, in session 22, chapter 3, concerning reforms, such distributions which are emitted by those who have not performed the corresponding service, should first be applied to the fabric of the cathedral church, so far as it is in need; and only if it is not in need, then it is in the power of the Bishop to apply them to another pious purpose at his discre-

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tion." However, a difficulty arises from chapter 3, concerning reforms, of session 21 of the Council of Trent, in which it is stated: "The Holy Synod decrees that in cathedrals and collegiate churches, where there are no daily distributions, or where they are so small that they are likely to be neglected, one-third of the fruits and all other revenues and emoluments, both of dignities and of prebends and benefices, should be set aside and converted into daily distributions, which shall be divided proportionally among the dignities and others who are engaged in divine services, according to a division to be made by the Bishop, even as the legate of the Apostolic See, in the first deduction of the fruits." But these texts, which at first glance seem to be in conflict, are easily reconciled by Benedict XIV in *Institutiones ecclesiasticae*, 107, § 7: "But all appearance of contradiction is removed if a distinction is made between dignities which derive their revenues from the Chapter Mass..."

[*Latin ed. p. 413*]

MARSORUM, in the year 413, received and among the dignities which draw revenues from the same mass. Therefore, according to the Council, the distributions pertaining to the primary dignities are to be divided among those present, while the distributions pertaining to other dignities are to be assigned to the Fabric of the Church or to another pious cause. This is supported by the authority of the Sacred Congregation, which has defined this matter on more than one occasion," writes Fagnanus. Furthermore, it must be inquired whether the Archdeacon is rightfully entitled to the custom of noting absences and reporting them to the Chapter, and whether the officials of the Chapter have diligently performed this duty. Indeed, the duty of the officials is related to the obligation, on the part of the canons or other pious individuals, of obtaining the distributions which others lose due to their absence; however, in the text of the Council of Trent concerning the manner of noting and punishing absences, no mention is made of this. – Benedict XIV, in *De Syn.*, lib. 4, cap. 4, n. 2, writes: "Indeed, all these salutary constitutions would easily be circumvented unless in each cathedral and collegiate church certain designated canons, or others by whatever name they are called, were appointed, to whom the duty would belong of accurately noting those who are absent from the choir and from other sacred functions, and of noting those who, by name, abstain from a particular part of the divine office." And Barbosa, I. c., cap. 34, n. 18, teaches: "A marker must be created and appointed who will note those who are absent from the divine services, and... he must show the book when he appears before the Bishop." Now, the Most Reverend Prelates will deliberate whether it is expedient to maintain the three-hundred-year-old custom, which the Archdeacon invokes, by virtue of which he has, up to now, noted and reported his own absences, even with regard to the distributions from the Ricciotti

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legacy. The canons object, but, motivated by hope and reason, they believe that they themselves will benefit from the distributions, not only when a position is vacant, but also when the person holding the position does not benefit from it due to his absence. However, it is clearly the will of the legislator, and especially according to the prescription of the canons, as indicated by the cited texts, that such distributions, which the Archdeacon does not benefit from, should be assigned by the Bishop to some pious cause.

[*Latin ed. p. 414*]

414 FROM THE HOLY GENERAL COUNCIL: Wherefore, the Bishop, by virtue of the authority which he possesses, and as Delegate of the Holy See, as ordered and established by the Council of Trent in the aforementioned text, must decide whether the deficiencies to be noted should be made by the founders themselves, or whether, according to established custom, he should, for each year, consider the testimony of the Archdeacon himself. Having considered these matters, the following questions were proposed: I. Does the Archdeacon have the right to convene a Chapter and to give a decisive vote in the Chapter meetings, or rather, is it more expedient for him to be granted these rights only in this case? II. Should the legate Ricciotti be demanded for execution in such a way that the Archdeacon receives daily distributions only from the revenues of the legate, or also from the Chapter funds, to which the legate Ricciotti should be added in this case? III. Should the distributions which the Archdeacon does not receive be increased for the other canons in proportion to their service, or rather, should they be destined for the FABRIC of the Church or another PIOUS WORK, at the discretion of the Bishop, in this case? RESOLUTION: The Sacred Congregation, after deliberation on September 1, 1900, decided to respond as follows: To I, the question is not proposed. To II, the distributions from Ricciotti are to be given to the Archdeacon only in consideration of his service. To III, negatively to the first part, and affirmatively to the second.

[*Latin ed. p. 415*]

415 FROM THE CIRCULAR LETTERS of the Congregation of Bishops and Regular Canons, by which the Ordinary pastors of dioceses are instructed to send, under seal and directly to the Sacred Congregation, letters of recommendation concerning institutes of simple vows, seeking apostolic approval. Most Illustrious and Reverend Lord, as a brother, I have learned recently that the Directors or Directresses of institutes of simple vows, when approaching this Sacred Congregation of Bishops and Regular Canons, in order to obtain a decree of praise or the approval of their respective institute or constitutions, together with a suppliant petition, also present letters of recommendation manifestly given to them by the Ordi-

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nary pastors of their dioceses, in which the members of their own institute are commended. Furthermore, through such a mode of action, it can easily happen that the Sacred Pastors do not fully enjoy the freedom of openly expressing their sentiments, and sometimes perhaps are prevented from clearly informing the Sacred Congregation about certain matters which would be useful, or even necessary, for rightly judging the merits of the petition. Wherefore, this same Sacred Congregation, in order to proceed more safely in so important a matter, has judged it necessary to instruct all and each Ordinary pastors, that whenever letters of recommendation are requested by institutes of simple vows in order to obtain a decree of praise or apostolic approval, they should not hand these letters to the petitioners themselves, but should send them, along with appropriate information and their own opinion, directly to the Sacred Congregation, under seal, for the sake of truth and justice. Therefore, for the fulfillment of my duty, I signify this to Your Eminence, to whom I pray for all blessings from the Lord. Given at Rome, from the Secretariat of the Sacred Congregation of Bishops and Regular Canons, on the 22nd of June, 1900. F. H. M. CARD. GOTTI, Prefect. PANICI, Secretary.

[*Latin ed. p. 416*]

416 FROM THE DECREE OF THE HOLY CONGREGATION OF STUDIES: It is necessary that a copy of any work which is published by individuals or by Catholic universities be sent to the Holy Congregation of Studies. Most Reverend and Venerable Sir, It is most pleasing in Catholic universities or canonically erected faculties to receive men who, through published works, illuminate sacred disciplines and strive vigorously to defend against the errors of insects, which are spread with excessive license in this age, so that the Catholic truth, the friend of all sciences, may shine more and more. Furthermore, it is readily apparent that whatever is brought to light from the aforementioned faculties is also a source of honor and solace to this Holy Congregation, which is entrusted with the governance of studies; therefore, it is most important that this Holy Congregation be informed of the works published by those who belong to these same faculties. To ensure that these works are not circulated among others, and especially among students, without being presented to this Holy Congregation, a prudent precaution was taken in the celebrated Constitution, happily remembered, of Leo XII, which begins: "Since divine Wisdom has led us to consider it necessary to bring to the attention of all," namely, that those who are engaged in teaching or other duties in universities or faculties that rightfully belong to us, are obligated to send a copy of each work they have published to the Sacred Congregation, as a sign of obedience. Since the matter at hand is of no small importance, the Chancellors of each faculty will take care, with due diligence, to ensure that this law is known to all, and furthermore, that ephemerides and any other publications that appear

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from time to time are also sent. Given from the Secretariat of the Sacred Congregation of Studies on February 10, 1900. FRANCIS CARD. SATOLLI, Prefect. ASCENSUS DANDINI, Secretary.

[*Latin ed. p. 417*]

417 FROM THE SACRED CONGREGATION OF STUDIES: Doubts and Resolutions concerning the granting of the degrees of Licentiate and Doctorate. Most Reverend and Venerable Lord, In response to a question posed, the Sacred Congregation of Studies, through its Secretary, on July 11, 1899, declared to the Most Reverend Archbishop of Hispalensis that the meaning of article 65 of the statutes of that Seminary, concerning foreign students seeking academic degrees, is not that they are required to attend classes for a full two years for the degree of Licentiate, but only for the doctoral degree. Furthermore, from the Instruction of the Sacred Congregation dated June 30, 1896, it is stated: "Those who come from foreign dioceses to the five Seminaries, in order to obtain academic degrees, must, in addition to passing the required examinations, have attended the courses of the Faculties for a full two years, having previously presented proof that they have completed a course in Theology in their own dioceses." And in article 50 of the statutes of this Seminary of Compostela, it is stated: "Those who desire to be honored with academic degrees in foreign dioceses must present themselves at this Seminary, in order to attend the courses of the Faculties established there for a full two years, unless they are dispensed by the Sacred Congregation of Studies; however, they must always present proof of having completed the disciplines that precede the Faculty in which they seek to obtain the degree." In the aforementioned Instruction, it is read: "Those who wish to be awarded the degrees of Licentiate and Doctorate in Canon Law must attend the classes of the Canon Faculty for a full three years." In article 38 of the statutes of this Seminary, the following is stated: "From now on, let it be so that, in addition to the fifth year of theological studies, they diligently pursue their studies, not only those who are prevented from receiving the priesthood at a younger age, but also those who wish to be honored with the degree of Licentiate or Doctorate." With these matters established, I humbly request that Your Eminence not refuse to resolve the following doubts: 1. Can the students of this Seminary of Compostela obtain the degree of Licentiate in Sacred Theology after the fourth year of this Faculty, provided that the currently valid statutes are strictly observed? 2. Are the students of this Seminary required to attend the classes of this Seminary for a full two years in order to obtain the doctoral degree?

[*Latin ed. p. 418*]

418 FROM S. C. STUDIORUM, only for the year corresponding to the degree of Licentiate, provided that the required disciplines have been completed over four years. 3°. Whether students may obtain the degree of Licen-

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tiate in Canon Law after the second year of this Faculty. 4°. Whether non-students may obtain the degree of Licentiate in Canon Law if they attend the schools of this Seminary for a year, provided that they have completed the required disciplines in the second year. And God, etc. My Lord and Reverend Father, that the doubts arising from the aforementioned passages, or from the Statutes, or from the Instructions of this Sacred Congregation, may be rightly resolved, two principles must be firmly held, which are valid everywhere: 1. that the Laurea is a degree superior and more distinguished than the Licentiate, although both degrees have, in many respects, effects in common, but not all; 2. that in all canonically established Faculties, the Licentiate is generally conferred during the course of studies, that is, in the penultimate year, while the Laurea is conferred in the final year, as it is considered the crowning achievement of studies. From these two principles, the solution to the doubts that have arisen regarding the time required to obtain each degree spontaneously follows, both for those who have completed their studies outside of canonically established Faculties, and for those who have begun and completed their studies within those same Faculties. For those who are required to attend the schools of the Faculty for a full two years, they may obtain the Licentiate after the first year, and the Laurea after the second year; while those who are in the penultimate year of their studies may obtain the Licentiate, and in the final year, the Laurea. Therefore, whenever the Instruction or the Statutes speak of a "full two years" required to obtain degrees, these words must be understood to mean that a cumulative two years are required for both degrees, and not disjunctively, for the Licentiate requires only that the schools of the Faculty be attended for one year alone: which is also made clearer by the difference in value that the degrees have. Since the Laurea is a degree superior to the Licentiate, it is entirely reasonable that the same conditions of time and study should not be required for the Licentiate as are required for the Laurea, which requires something more and demands more. Therefore, both from the intrinsic nature of the matter, and from common usage, it follows that the four doubts proposed by Your Eminence should be answered affirmatively.

[*Latin ed. p. 419*]

FROM THE SACRED CONGREGATION OF STUDIES 419 May God grant the longest life to Your Eminence, whose hands I humbly kiss. In Rome, on the 21st of March, 1900. Your most humble and obedient servant, FRANCIS CARDINAL SATOLLI, Prefect. To His Eminence and Most Reverend Archbishop ANDINI, Secretary to the Holy See, in Santiago de Compostela. FROM THE SACRED CONGREGATION OF THE HOLY OFFICE 1 1 DOUBT: Whether, in urgent cases, in which sins are reserved to the Holy See, it is permissible, instead of writing to the Holy Penitentiary, to appeal to him who is endowed with the faculty [to absolve]. Most Blessed

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Father, In more urgent cases... (Decree of the Holy Office, June 20, 1886), (1) absolution from matters reserved to the Holy See may be granted, but under the penalty of recurrence, unless the absolved person appeals to the Holy See within a month, accepting its mandates. However, Bishops have the delegated faculty to absolve from the aforementioned reserved matters, as is usually granted to them for five years by the Sacred Congregation of Propaganda Fide (F. X) under number 10; it is doubted whether an immediate appeal to the Holy See is necessary. Therefore, the Bishop N. N., humbly prostrate at the feet of Your Holiness, asks: I. Whether, in the case of absolution, as mentioned above, an appeal to the Bishop endowed with the faculty to absolve is sufficient; and, if so, to what extent: II. Whether, in the same case, an appeal to the Vicar General of the Bishop, as to the Ordinary, who participates in the episcopal faculties by law, is also sufficient: III. Whether, in general, an appeal to any priest habitually delegated by the Ordinary to absolve from these papal reservations, from which the penitent has been accidentally absolved, as mentioned above, by virtue of the Decree of the Holy Office of 1886, is sufficient? And God, etc. (i) Recole, Vol. X, p. 46.

[*Latin ed. p. 420*]

420 FROM THE SACRED CONGREGATION OF THE ROMAN AND UNIVERSAL INQUISITION, Session IV, on December 19, 1900. In the General Congregation of the Sacred Roman and Universal Inquisition, held by the Most Eminent and Reverend Cardinals, General Inquisitors, concerning the aforementioned doubts, and after the vote of the Most Reverend Consultors, the same Most Eminent and Reverend Fathers were commanded to respond as follows: To the first and second questions: Affirmative, with the words having been uttered to the Most Holy. To the third question: Negative. On Friday, the 19th of the same month and year, during the customary audience of His Holiness, Pope Leo, of Divine Providence, the Thirteenth, Reverend Father, in the presence of the Secretary of the Holy Office, His Holiness approved and confirmed the resolution of the Most Eminent and Reverend Fathers. I. Canon of the Sacred Roman and Universal Inquisition. MANCINI'S DOUBT: Whether the form recited concerning the ordaining of a number, in the singular, invalidates the validity of the ordination. Most Blessed Father, the undersigned Bishop N. N., prostrate at the feet of Your Holiness, humbly presents the following fact. A priest remembers very well that, at the time of his priestly ordination, he did not, by himself, as is prescribed in the Roman Pontifical, touch the double matter of bread and wine, but rather, in union with other ordinands; nevertheless, the consecrating Bishop used the singular form, "Accipe," etc. Now, that priest, troubled by his conscience regarding the validity of his ordination, awaits with great urgency a response for his peace of mind. Furthermore, on Thursday, January 16, 1901, in the General Congregation of

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the Sacred Roman and Universal Inquisition, held by the Most Eminent and Reverend Cardinals, General Inquisitors, concerning the aforementioned prayers, and after the vote of the Most Reverend Consultors, the same Most Eminent and Reverend Fathers decreed: Let it stand.

[*Latin ed. p. 421*]

FROM THE HOLY APOSTOLIC PENITENTIARY, 421. On the following weekday, the fifth day of the month, the eighteenth of the same month and year, during the customary audience granted to His Most Holy Lordship, Leo, Divine Providence, Pope, XIII, with His Most Holy Lordship, the Reverend Father, the Assessor of the Holy Office present, His Most Holy Lordship approved the response of the Most Reverend and Most Reverend Fathers. I, Mancini, Reverend Father, Notary of the Holy Inquisition. FROM THE HOLY APOSTOLIC PENITENTIARY, NORMS concerning matrimonial dispensations. In order that this Holy Tribunal of the Apostolic Penitentiary, exercising the power, in a provisional manner, exclusively attributed to it, to grant, in external form, matrimonial dispensations for the poor or those who are nearly poor, may faithfully adhere to the norms prescribed to it, it is made known to the Apostolic Delegates and Agents of ecclesiastical affairs, with the instruction to communicate this to the ecclesiastical curias they assist: 1. That the testimonies of the Bishops must contain the express declaration of the poverty or near poverty of the supplicants, judged according to the norms in use and with the conscience of the Ordinary burdened in this matter; 2. That the Bishop must sign the testimony, and in case of a legitimate impediment, he may sign it a Delegate ad hoc specially appointed, whether this be the Vicar General or another Priest, expressly mentioning the legitimate impediment of the Bishop and his special delegation. From the Holy Apostolic Penitentiary, the 5th of February, 1900. A. CARCANI, & P. Regens.

[*Latin ed. p. 422*]

422 FROM THE HOLY CONGREGATION FOR RITES IN VERONA. Concerning the beatification and canonization of the venerable Servant of God, Magdalena, Marchioness of Canossa, foundress of the Institute of the Daughters of Charity. At the request of the Most Reverend and Illustrious Father Michael Bruni, General Procurator of the Congregation of Missionaries of the Precious Blood of Our Lord Jesus Christ, and of the Postulator for the cause of beatification and canonization of the Venerable Servant of God, Magdalena, Marchioness of Canossa, the Most Reverend and Illustrious Lord Cardinal Lucidus M. Parocchi, Bishop of Porto and of the Holy Roman Church, and Relator for the same cause, in the Ordinary and Royal Sessions of the Congregation of Sacred Rites, held on the date indicated at the Vatican, according to the special Apostolic regulations issued in the years 1878 and 1895, proposed the following question for

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discussion: "Whether it is established that the processes, both Apostolic and Ordinary, are valid and relevant, if the witnesses have been duly and correctly examined, and if the testimonies have been legitimately obtained, in the case and for the purpose in question?" And the Sacred Congregation itself, having heard the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, both orally and in writing, and having carefully considered the matter, decided to respond: "It is established, with the exception of the witnesses not repeated in the Apostolic process, and with the exclusion of extrajudicial testimonies; concerning, however, the process established in Venice, it is postponed and to be considered further." On June 26, 1900. With all of the above having been reported to His Holiness, Pope Leo XIII, through the undersigned Cardinal of the Congregation for Sacred Rites, His Holiness approved the resolution of the aforementioned Sacred Congregation. On July 9 of the same year.

CAJETANUS CARD. S. R. ALOISI-MASELLA, Prefect.

Pro-Datary, L.

S. DIOMEDES PANICI, Archbishop of Laodicea, Secretary.

[*Latin ed. p. 423*]

425 REGARDING CERTAIN DOUBTFUL RITES concerning a feast which has been permanently reduced to a simple observance. When the matter is doubtful: Whether a feast which has been permanently reduced to a simple observance should be considered as simplified or as simple. — The Sacred Congregation of Rites, after considering the matter with the undersigned Secretary and after hearing the opinion of the Liturgical Commission, decided to respond as follows: Negatively to the first part, affirmatively to the second part; with the rubrics (1) to be observed. And thus it was decreed on December 7, 1900. D. CARD. FERRATA, Prefect. S. DIOMEDES PANICI, Archbishop of Laodicea, Secretary. CONCERNING THE DOUBT as to whether the virtues of Theology, namely Faith, Hope, and Charity in God and in neighbor, as well as the Cardinal virtues of Prudence, Justice, Fortitude, and Temperance, and those things connected with them, are present in the case of the Most Reverend Servant of God, Joseph Benedict Cottolengo, a canon of the Church, founder of the Taurinensis Institute of the Little House of Divine Providence.

REGARDING THE QUESTION: Whether a feast, permanently reduced to a simple observance, should be considered as simplified or as simple. As is known to experts, the distinction between a "simplified" feast and a "simple" feast is that the former has the right to three commemorations, namely Vespers and Lauds, and also Matins; while the latter has only two, namely Vespers and Lauds. However, this Decree of the Sacred Congregation of Rites declares that a "simplified" feast, when permanently changed, alters its nature, or passes from being "simplified" to being "simple"; which is the same as saying that a "simplified" feast, when permanently changed,

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no longer has the right to three, but only to two commemorations, as a "simple" feast does. We believe this to be the wiser course; for if it were to retain the right to three commemorations, besides the confusion that such a "simplified" feast would clearly cause, a new distinction would arise, about which the rubrics are silent, namely: a "simplified" feast by accident, and a "simplified" feast permanently changed to a "simple" feast. Wishing to avoid this, the Sacred Congregation of Rites, with good reason, has decided that a "simplified" feast, when permanently changed, should be considered as "simple," or as being "simple," and should have the right to only two commemorations, namely Vespers and Lauds.

[*Latin ed. p. 424*]

424. FROM THE HOLY GOSPEL, or through arduous efforts, some attempt to separate charity from piety and religion. Indeed, no other charity can exist than that which embraces both God and man, presenting God as worthy of love for His own sake, and man as worthy of love for the sake of God. As Saint Lawrence Justinian writes, "The love of God begets the love of one's neighbor, and the love of God increases the love of one's neighbor" (Serm. post Ascens.). And from the moment that divine voice resounded, "And this commandment we have from God, that he who loveth God love also his brother" (1 John 4:21), the charity of Christ was immediately seen as the inheritance of the children of the Church. Among those men who have most expressively reflected the divine image of providence towards afflicted humanity, it is right to mention the Venerable Servant of God, Joseph Cottolengo, whose memory is blessed, because of the most splendid monuments of charity that remain from him. He was born in Barderate, in the Diocese of Turin, on the ninth of May, in the year 1786. Having been carefully guarded and instructed by most pious parents, he lived a life of the most innocent character from infancy until his death. His adolescence was not so much a preparation for future sanctity, as it was an exercise of present sanctity, and of its mature form. Having inherited a lively disposition, from the very dawn of reason he tempered himself, so that with a remarkable bond of virtues, he united patience and gentleness of spirit with fortitude, and was worthy to be called an angel of the family. At barely eight years of age, he began to think about helping the sick; and to this he was so suited that the following words can be applied to him: "From my youth I was made merciful" (Job 31). For when they found him at home, occupying a corner of the room with a stick, and asked him what he was doing, he said that he intended to establish a hospital. With this and other virtues shining forth as an example, after completing his studies, partly in Barderate and partly in the Seminary of Asti, he obtained a doctorate in sacred disciplines, and was raised to the priesthood. While diligently and usefully performing his duties, seeking nothing and expecting nothing, he was elected among the members of the Congregation of Theologians of the Body of Christ, for

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his outstanding merits in virtue and doctrine, and was commonly known by the name "good Canon." However, as God willed it, his true arena was revealed through the Small House that he founded for receiving the sick and the poor of every kind, under the title of Divine Providence; and he wanted the following inscription to be placed at the entrance of that building: "For the charity of Christ presseth us" (2 Corinthians 5:14). This was a truly magnificent and salutary work, which began with very modest means.

[*Latin ed. p. 425*]

From the Sacred Rites, number 425, he attained the height of his achievements. There, having become all things to all men, he gathered together the sick of every condition, nourishing and caring for them. Seeing the poor, he embraced them with reverence, as if they were the very person of Christ, approaching them with a bare head and showering them with the most excellent services. To ensure that such a great work would never lack workers, and that it might be expanded in many ways for the eternal salvation of souls, he himself poured forth his own virtues into a vast company of holy virgins and pious men, establishing numerous congregations and families for that purpose, with their own laws and habits. Among these, after having undertaken the most arduous labors, he found an end worthy of a man of such charity; for "greater love hath no man than this, that a man lay down his life for his friends." Therefore, when a plague and cholera raged, and he had exposed himself openly to the dangers of life, he himself was struck by the same disease, and peacefully passed away as a victim of charity on the eve of the Kalends of May in the year 1842. His reputation for holiness, having increased day by day after his death, and having been held in the highest esteem by the King, the Primates, the clergy, and all classes of citizens, so that he was even publicly honored with signs and monuments, the cause for his beatification was begun before the Congregation of Sacred Rites. Therefore, after collecting the testimonies and diligently examining them, and after all other things required by law had been completed, a formal investigation into the virtues of the Venerable Joseph Benedict Cottolengo was instituted; first, in the preparatory committee on the eleventh day before the Kalends of January in the year 1896, presided over by His Eminence Aloysius Oreglia, Cardinal of the Holy Roman Church, Bishop of Ostia and Velletri, who was the Promoter of the Cause; then, in the preparatory assembly in the buildings of the Vatican on the fourteenth day before the Kalends of January in the year 1899; and finally, in the general assembly before His Holiness Pope Leo XIII in the same Vatican buildings on the fifth day before the Kalends of December, which had just elapsed, in which the same His Eminence proposed the question: "Whether it is established that he possessed the theological virtues of Faith, Hope, and Charity in God and in his neighbor, as well as the cardinal virtues of Pru-

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dence, Justice, Fortitude, and Temperance, and their corresponding virtues, in a heroic degree, in the case and with regard to the effects of which we are speaking." The Most Reverend Cardinals presiding over the Sacred Rites and the Consultors then, in order, gave their opinions. After the votes had been duly counted, the Blessed Father, with these auspicious words, concluded the assembly.

[*Latin ed. p. 426*]

426 FROM THE SACRED CONGREGATION OF RITES: "Indeed, the divine plans are wonderfully manifest, so that in this century, which is already so devoted to decline and the prudence of the flesh, the Venerable Joseph Benedict Cottolengo has flourished. That outstanding man, inflamed with great charity for God and relying solely on the help of divine providence, has been in Our Italy an imitator of Vincent de Paul, both in attending to the poor and in promoting their eternal salvation. We reserve judgment on the excellence of his virtues, of which we have spoken in this present assembly, for a more opportune time. But even now, we take a happy omen of this matter, that the virtues discussed, which are so outstanding, will most suitably contribute to the heavenly honors of the Blessed, which, if it pleases God, will be bestowed upon the Venerable Servant of God. On this Sunday, the Sixth Sunday before Lent, having entered this Vatican Hall, made more noble by this sacred occasion, and seated on the papal throne, He received the Most Reverend Cardinals, including Dominic Ferrata, Prefect of the Sacred Congregation of Rites, and Aloysius Oreglia, Relator of the Cause of Saint Stephen, together with the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, and Myself, Secretary, and, in their presence, solemnly declared: 'That the theological virtues of Faith, Hope, and Charity in God and in neighbor, as well as the cardinal virtues of Prudence, Justice, Temperance, and Fortitude, and those virtues connected with them, are present in the Venerable Servant of God, Joseph Benedict Cottolengo, in a heroic degree, in the case and with respect to the matter under consideration.' This Decree was ordered to be made public and to be recorded in the acts of the Sacred Congregation of Rites on February 4th, in the year 1901. DOMINIC CARDINAL FERRATA, Prefect of the Sacred Congregation of Rites. L. 1335. DIOMEDES PANICI, Archbishop of Laodicea, Secretary of the Sacred Congregation of Rites.

[*Latin ed. p. 427*]

FROM THE SACRED RITUAL, 427: NOTE. The process of beatification of the venerable Joanna Touret follows, the beginning of which is on page 229, and the continuation on page 379. Sometimes, our Joanna experienced the malice of her enemies, but it turned to their own ruin; for this most invincible Virgin crushed their audacity, avoiding temptation and rebuking those who acted in place of God: "The Witness XIV says, 'When she saw

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that her companions, the Daughters of Charity, who were in their house in Bray, were adhering to what was then desired, she left the house in order not to violate her conscience. Then, she presented herself spontaneously to the house of the Daughters in Paris, where she was poorly received; but when that Superior understood the reason why the aforementioned Sister had left her sisters, she praised her, and the Superior herself compelled the Sisters who had adhered to the demands of the revolution to make a formal retraction.'" Also, Witness XXII says: "In this regard, the aforementioned Sister Teresa Biset told me that the aforementioned Sister Joanna, while in a house of her Institute, the Daughters of Charity, learned that the priests who were exercising the sacred ministry there had taken the oath imposed by the revolution, and she left that house and went to the motherhouse in Paris." But when those most wicked men, who sought to corrupt her, thought they could force her to teach not the precepts of the Church, but what they themselves wanted; it was in vain; for to the unjust commands, our heroine steadfastly resisted with all her heart and soul, and she persevered in her usual manner: "In particular," says Witness XIII, "she pointed out to me that among the other things she suffered, she was also brought before the tribunals, where they wanted to impose on her that she teach in the school the catechism that was being compiled at that time; but Joanna, with courage and unwavering strength, replied that, being a Catholic, she could not teach anything but the Catholic catechism; for this, she also suffered beatings." Perhaps someone might think that the Handmaid of God, after the turmoil of the public affairs had subsided, and with religion once again established, and with the congregation of Sisters founded and firmly established, having been elected by unanimous suffrage as the general superior of this congregation, with the consent of both powers, finally rested, and no longer had the opportunity to exercise that same virtue. But, lest a false opinion mislead you, take note; for what the most bitter enemies of the Christian name dared not do, they did not hesitate to attempt.

[*Latin ed. p. 428*]

428 FROM THE SACRED RECORDS, virtuous and most esteemed men testified, after the laws and order were restored. Concerning this matter, since more has been written by us in the summary of her life, lest we wish to unduly distract or weary your minds, it is permissible for us, in order to avoid the tedium of vain repetition, to recall here the most important and illustrious events, which pertain solely to fortitude. Allow me, therefore, Reverend Fathers, to transcribe the words of Witness III: "After these modifications (of the rule), brought about by the decrees of the Holy See, the Venerable Servant of God suffered many tribulations; for the Archbishop of Besanzone and Abbot Bacaffe, who was its delegate, believed that the Venerable Servant of God had been the promoter of those modifications, and

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therefore they separated the house of Besanzone and others in France from the Institute, and furthermore, they forbade those Sisters from receiving the Servant of God, who did not fail to undertake all demonstrative actions, especially of her great humility; but nothing availed to soften the mind of that Archbishop: which caused grave tribulations to the Venerable Servant of God, who demonstrated her perfect spirit of resignation to the divine will and of heroic fortitude." And Witness X narrates truthfully: "Because of this modification of the authority over our houses, the Venerable Servant of God suffered greatly from Abbot Bacaffe and from the Archbishop of Besanzone, who wrongly believed that the Venerable Servant of God had been the promoter of that very modification. I say wrongly, because it is well known that the Sacred Congregation, on its own initiative, proposed it to the Holy Father, who approved it. Meanwhile, the Archbishop of Besanzone ordered that the house of Besanzone and also others in France be separated from the rest of the Institute, and this schism caused very grave displeasure and tribulations to the Venerable Servant of God, who demonstrated the heroism of her spirit and her resignation." Therefore, the praise which the Sacred Scriptures generously bestow upon a strong woman, is supremely fitting for our heroine; for her actions, whether those accomplished during times of peace in founding the congregation, or those bravely sustained in adversity and calamities, demonstrate exceptional fortitude. Wherefore, we can rightly and justly agree with Witness XII, and with that thought, bring this chapter to a close: "In all things, she was deeply resigned to the divine will. This demonstrates her extraordinary fortitude, which was a special prerogative of hers, so that I do not hesitate to call her a strong woman."

[*Latin ed. p. 429*]

FROM SACRED CONGREGATION OF RITUAL, 429, ON HEROIC TEMPERANCE. This is that virtue which, in matters to be pursued or avoided, directs us to act according to reason (Cicero, *De Officiis*, Book I, on Temperance). Things that are truly good for a person are those which bring some benefit to the soul or body, provided they do not contradict the commandments of God and the Church; things to be avoided are those which are certainly harmful, or those which are only suspected of being harmful. Therefore, this virtue consists entirely in restraining oneself from excessive desire for good things, and in completely avoiding evil and unjust things. Saint Joan Antida Thouret is universally recognized as a shining example of this virtue. Indeed, our saint demonstrated heroic temperance in her filial love, having accepted her divine vocation, she spurned the goods of this world, and even deprived herself of necessary food in order to feed the poor. Afterwards, we saw this most illustrious woman flourish in those virtues by which the desires of the soul are restrained; and now we must speak of those things which can rightly be

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enumerated under this heading, and which would find no place elsewhere, namely, patience, a sober and frugal life, contempt for temporal things, and finally, modesty, in all of which God's Handmaid excelled. Therefore, with regard to the contempt for external things, it must be said that from her earliest years, God's Handmaid desired nothing except that which had to do with eternal salvation, and for this reason she avoided childish games altogether, shunned vain conversations, and, contrary to custom, disdained the world. "In the family home," says Witness XI, "as I have said in the aforementioned documents... she took care of household chores and lived apart from worldly things, completely devoted to practices of piety and devotion." When she grew older and entered the Institute of the Sisters of Charity, she shone with great patience, whether by enduring the orders of a certain sister who was in charge, or by ministering to the sick in hospitals, or by teaching young girls, or by bearing the greatest number of insults with an even and good spirit. Let us call upon Witness XVII: "When the Servant of God put on the religious habit, during her novitiate she was assigned the task of caring for the linens, a task which she performed with great diligence."

[*Latin ed. p. 430*]

430 FROM THE SACRED RITUAL, it is known that she had an opportunity to practice Christian patience, since in the aforementioned office, she encountered a nun of difficult character. And Witness XI says: "As for temperance, I can testify, according to my conviction, that her life was distinguished by a great spirit of mortification, which was also evident in her constant care for the sick." Furthermore, the gentle disposition, by which the Handmaid of God seemed inclined to silence, which is the foundation of temperance, strengthened by age, is, according to the opinion of St. Ambrose: "Silence, the opportunity to speak, and contempt of riches are the greatest foundations of virtues" (De Officiis, Book I). Moreover, from the Sacred Scriptures, it is clear to all that sin is never absent in much talking, because it provides easier opportunities for lies, detractions, vanity, and anger. Furthermore, an abundance of words and excessive talk are most vehemently opposed to this virtue of temperance; therefore, we follow the opinion of St. Gregory: "He knows how to speak rightly who also knows how to be silent in due measure" (in Moralia). But this most illustrious woman is praised by Witness III: "Even in temperance, the Handmaid of God was distinguished, for she was a lover of little speech." What more? She took care to restrain the conversations of her companions so that the events of the congregation would not be explained too leniently by them. She also frequently encouraged them, and after the separation, she confirmed this, stating that nothing she had left in France, nor anything she had previously given, would be reclaimed by the defectors. Thus, Witness XXXI says: "The same tradition testifies that the Handmaid of God, after

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the separation of the houses in France from the rest of the Institute, did not ask for anything of what she had given to the aforementioned houses." However, she did not tolerate the behavior of the Archbishop of Besanzon and his supporters, but at that time, if Witness XVII is to be believed, she behaved most prudently and temperately: "Due to the changes desired by the Holy See, the Archbishop of Besanzon restored the house of Besanzon, and other houses in France, by his own decision, separated from the rest of our Institute, and the Archbishop even went so far as to order that the aforementioned Handmaid of God should no longer be admitted, which greatly grieved her, but she endured those grave tribulations with heroic patience and admirable resignation." Therefore, it is not surprising that the Handmaid of God, so highly praised and celebrated in so many ways, is also praised by witnesses for her continence in food and drink, since this is certainly a lesser virtue.

[*Latin ed. p. 431*]

FROM THE SACRED RITUALS 431, it pertains only to the convenience of the body. How the matter truly stood, we learn most clearly from Testimony XVII, whose words it is fitting to repeat here. "She was very sparing in her sleep, for, as has been said by the aforementioned sisters, she often spent a good portion of the night attending to the benefit of the Community. In the refectory, the Most Reverend Lady, as the aforementioned Sister Victoria told me, preferred for herself hard bread, which she then softened in water. The tenor of her entire life, dedicated to the good of others, reveals the spirit of mortification that animated her. Furthermore, I recall having read in the aforementioned manuscript of Sister Rosalia that when some gift of food arrived from outsiders, for example, pastries or sweets, she distributed them to her sisters without even tasting them. Moreover, when the Most Reverend Lady was in Switzerland, in the Community of the Abbot Receveur, seeing herself treated with distinction in matters of food, she requested that she be given the same food that was given to the other communities." Therefore, from these things which we have narrated thus far, it seems to us that our heroine derived the greatest praise for herself from temperance. For she herself restrained the desires, which especially agitate the soul, and never allowed any disturbance to arise in her mind, and on the contrary, she was most gracious in her humanity and courtesy, winning the goodwill of all, since she was accustomed to show herself obedient and helpful to the powerful, and beloved, kind, and sociable to the poor. These things she taught to the sisters, these things she commanded: what more, then, shall I pursue concerning temperance here, what more shall I discuss, since I have almost exhausted all the power of words worthy of this virtue? CONCERNING THE OBSERVANCE OF VOWS From the things which we have stated in our previous discourse, we believe that there is no one who would doubt that our heroine shone forth with theological and natural

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virtues until her death: how, however, the Handmaid of God attained the divine counsels, by which, when diligently observed, mortals are raised to the summit of perfection, you, Most Reverend Fathers, will discuss among yourselves. Usually, there are more witnesses, confirming faith, John a m, never having failed in the habit of a more perfect life, than that which she herself had chosen from divine vocation: "It is known to me, says Witness I, through my own knowledge, what I have also mentioned."

[*Latin ed. p. 432*]

452 FROM S. G. RITUUM above, namely that the Most Reverend Lady not only distinguished herself by all the qualities of an excellent superior in directing our Institute; but also set an example of perfect observance of our rules. "And indeed, Testis II: 'It is well known in our Institute, and is constantly transmitted by the tradition still in force, that the Servant of God was always a perfect model and example of observance of the precepts of God, of the Church, of the vows professed, and of all other obligations that concerned her, both as a Christian and as a religious, with respect for which she was always venerated by the nuns and by those who knew her.'" Furthermore, it is worthy of remembrance that tradition teaches that the Handmaid of God, after the Daughters of Charity had been suppressed and dispersed, never departed from those laws to which she had freely subjected herself, nor did she lay aside her religious habit, nor did she fail to care for the poor and the young. Testis XI testifies, speaking with utmost truth, thus describing the matter: "After the House of the Daughters of Charity had also been suppressed by decree of the Convention, she was obliged to leave it, but she always retained her religious habit, and she went to Besanzone, where she opened a free school for young girls and devoted herself to the care of the sick." This is confirmed in almost the same words by Testis XXII: "The Servant of God was obliged to leave the Institute of the Daughters of Charity because the Revolution suppressed their houses. However, having left there, she did not abandon her religious habit and continued to practice the works of charity proper to the same Institute." Let us here address a difficulty which, as I see, has already been raised by the most astute Promoter of the Faith, namely, that the Handmaid of God may perhaps have sinned through levity and fickleness, since, when the Catholic faith was restored in Albert, and many congregations were re-established, she nevertheless, rather than returning to her former religious life, devoted herself zealously to establishing an institute for Daughters of Charity. But in this matter, it is best to hear Testis XVIII herself, who says: "Then, the aforementioned Sister Chambrot told me that the Vicar General of Besanzone, and another priest, whose names I do not know, urged the Most Reverend Lady and gave her the command to carry out the foundation of our Institute. The Most Reverend Lady, for her part, was able to obey this command, since she had not made any vow among the Daughters, and

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she wrote to the Mother General of the Daughters to inquire whether the Institute would be restored, and when; and she received the reply that for the time being, it would not be."

[*Latin ed. p. 433*]

From the Sacred Congregation of Rites, 455: "She did not speak, and indeed, the Institute itself was restored after twelve years from the founding of our Institute of Sisters." Thus, our heroine is absolved, for she did not establish a new congregation with the intention of granting indulgence to inconstancy or levity, or even to vanity and pride, but rather to serve God more faithfully. But now it is necessary to speak individually about the observance of the vows: for we understand the vows to be nothing other than the practice and exercise of the counsels which Christ Jesus gave to His disciples, so that good and religious men might more easily attain to perfection of virtues. Among these, undoubtedly, poverty stands out above all, which frees the mind of a man from the distractions of this world, and elevates him to a higher condition, so that he may more readily be united with God, like a tree which is raised the higher, the less its branches spread out towards the earth. Therefore, if you ask by what manner of dress and adornment our St. Joanna Antida proceeded, I shall answer: she expressed the very image of poverty, if it could be painted, and this most excellent woman expressed it in herself. "The Servant of God," says Witness II, "whose houses of the Institute of the Daughters of Charity were suppressed by the civil government, went to her native land dressed in the attire of a secular woman and begged in the places that were convenient for her to pass through." Moreover, in order not to offend God and to resist His laws, she endured prolonged hunger with a steadfast spirit, as the same witness recounts: "Even the revolutionaries spared her not, and manifesting their hatred against her, they did not cease to persecute her, even threatening her with execution. The Servant of God, seeing herself exposed to the harsh trial of the danger of her life, fled to rural places, where she wandered and solitary, spent about 10 months, subsisting only on bread and water." Furthermore, she greatly loved poverty and was accustomed to often commend it to her sisters: thus Witness XVIII: "Even with regard to the poverty prescribed by the rule, she urged faithful observance, even of the smallest things." And Witness XXXI adds: "She was very strict with herself in matters of personal treatment, and she was most devoted to the poverty that she practiced, and which she zealously recommended to her daughters." What shall we say about her heroic chastity? Even as a young girl, she dedicated herself to the most pure virginity to God Most High, rejecting the incitements of the flesh, and finally, she vehemently rejected the very arguments for marriage more than once. It will suffice to add what Witness X stated: "I understood from the aforementioned sisters that the

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Servant of God, being..."

[*Latin ed. p. 434*]

45i IN S. G. RITUUM at her parental home, she suffered temptations to evil from a woman employed in the household, but the Servant of God did not allow herself to be coerced, nor did she succumb to those temptations." And shortly thereafter: "While serving the sick, there was, as far as I can recall, a certain physician who urged the Servant of God to enter rather into the ways of the world, but she did not heed that suggestion at all, and she rejected it." In temptations indeed, aimed at violating her chastity, she never, with her own strength, although most powerful, recklessly exposed herself, nor did she add strength to herself, but, according to the teaching of so many illustrious Doctors of the Church, she feared for her affairs and sought safety in flight, as one who is certain that in such a contest, she would be crowned, not by rash resistance, but by cautious flight. "In a hospital, as the Witness XIII says, the Servant of God experienced a temptation from a young woman who urged her to leave religious life, and the Servant of God strongly resisted, and she wrote to her Superior General so that she might leave that hospital." For, as the Venerable Bede says, "It is a greater miracle to eradicate the corruption of one's own flesh than to expel unclean spirits from the bodies of others" (in coll. patr.). But this conspicuous virgin also earned this praise not easily, if we agree with the testimony of Witness III: "In matters of life and conduct, I testify with conviction, based on the aforementioned reasons of my knowledge, that the Servant of God was an angel, and I also testify that in the exercise of these virtues, she persevered constantly until her death." It remains to say something about the obedience and humility of the Handmaid of God. No one is ignorant that obedience is divided in two ways, namely, of a man to God, and of a man to a man: we receive both as habits of obeying all precepts, which proceed from reason. The ultimate reason for this kind of obedience is the will of God, which, according to the opinion of Abbot Hugh, consists only in this, that nothing should be preferred to Him, but that He Himself should be preferred to all. Therefore, let no one doubt that the Handmaid of God deserves the highest praise, since, even in her tender years, she was accustomed to follow the divine will, to which she also yielded natural obedience, rejecting marriage proposals, and entering the religious life that the confessor had determined. And also in the congregation of the Daughters, her obedience shone forth in charity; for Witness I I says: "She was admitted to the novitiate during which she distinguished herself as perfect."

[*Latin ed. p. 435*]

From the Sacred Ritual, 435, an example of virtue to be edifying to the entire community, and I add that, having had a very strict novice mistress,

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the Venerable Servant of God never uttered any complaint whatsoever. After having left the Society of the Daughters of Charity against her will, she did not consider it necessary to live without obedience, although the bonds to which she had already submitted were dissolved by the necessity of the times; but on the contrary, she always and everywhere yielded to the counsel of her superiors. Of the many testimonies that we could offer, we choose one, albeit a lengthy one, in which you can, at first glance, perceive all that Joanna Antida accomplished in order to render due obedience to God and to ecclesiastical superiors. Indeed, the blessed Apostle [St. Luke] teaches in the Acts [II]: "From her declared tradition, transmitted to us by the nuns who were contemporaries of the Venerable Servant of God, among whom I especially recall Sister Victoria Bartholemont, who was Provincial in Savoy, and the late Sister Elizabeth, who was the first companion of the Servant of God, when this woman began the work of founding our Institute, I have learned that the Venerable Servant of God, being in Switzerland, met there with two General Vicars of Besanzone, who were exiled because of the revolution dominating in France. These men urged her to return to Besanzone and to open a school there for the education of youth, assuring her that she would be safe even from the revolution. Of these two Vicars, I recall only one, named Bacoffe, who later became the director of the Venerable Servant of God and of the work that she founded. The Venerable Servant of God obeyed and, returning to her native land in Besanzone, she rented a house there and opened a school for girls. For three months, she alone took care of instructing the girls, who increased in number from day to day, until the school itself became crowded, because it was recognized, by clear evidence, to be very profitable and of great benefit to the Church and to society. What is truly astonishing is that the Venerable Servant of God, without ever tiring, in addition to attending to her school, always found time to visit and assist the sick, to whom she devoted all her charitable care, helping them with medicines and other curative means. These two works, that is, the school and the assistance to the sick, were so successful that even the administrators of the charitable works entrusted the Venerable Servant of God with the distribution of medicines and other aid to the sick. After these three months, Sister Elizabeth, as mentioned above, joined the Venerable Servant of God, and shortly thereafter, two others..."

[*Latin ed. p. 436*]

456. The Sacred Congregation of Rites was always able to direct and guide the Venerable Servant of God, with the advice and counsel of the aforementioned Vicar Bacone, in expanding her works. And so, while the Venerable Servant of God was meanwhile troubled in spirit and did not know what to do, and if, upon the restoration of the Institute of the Daughters of Charity, she were to be called back by them, she turned to her spiritual director, whether it was Vicar Bacone or another, and the director

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made it clear to her that she was not bound by any vow to the Institute of the Daughters of Charity, and indeed, as is well known in our Institute, the Servant of God, during the five years she spent with the Daughters of Charity, did not make any vows, given the lack of her age, and that these, invited again, did not wish to accept the invitation to send nuns to Besanzone for an establishment for which the funds existed; therefore, the same director concluded, she should remain calm, continuing the work she had begun, and allowing herself to be guided by obedience. Upon receiving this response, the Venerable Servant of God calmed down and, out of obedience, devoted herself to expanding her work by opening new houses. And it is a fact, attested by the tradition and history of our Institute, that the Venerable Servant of God, having obtained approval from her director, as I have said, for the work she had begun, from April 1799, the time of the beginning of the work itself, to 1810, founded approximately forty houses in various cities, in addition to various parts of France, also in Savoy and Switzerland, and all of the aforementioned houses, it is also well known, proved to be of great benefit to the Church and to society, and were always greatly appreciated by Catholics, and even by politicians." "She did not devise the rules of her new congregation more out of her own will than out of obedience, for, as Testis III says, "at the urging of the aforementioned General Vicar, she wrote the rules of her Institute, rules which were then approved by the Archbishop of Besanzone, who was the General Superior of the Institute itself, and the rules themselves were also endowed with civil sanction." Over time, she requested and obtained the approval of the Roman Pontiff for the rules, but she also humbly submitted to the changes that were made by his authority, as Testis XIV confirms. "It is well known in our Institute that, during the pontificate of Pope Pius VII of blessed memory, the Venerable Servant of God obtained that the rules of our Institute be approved by the Holy See. The aforementioned Pontiff, in approving them, wished that the houses of our Institute should no longer depend on a General Superior, but on the respective Ordinaries of the places."

[*Latin ed. p. 437*]

FROM THE SACRED RITUALS 457: [Here, those who state that the vows should last as long as the nuns remain in the Institute. These modifications caused great tribulations for the Venerable Servant of God, since the Archbishop of Besanzone believed that she had proposed those modifications, and it came to pass that the houses of Besanzone separated themselves from our Institute.] While enduring these tribulations, the Venerable Servant of God, as I understand, distinguished herself by great humility and resignation. Humility is the virtue of those who follow the laws of Christ, and it is the head and foundation of all other virtues, which, without it, are to be considered as worthless, even if they were the best of human

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endeavors. In this, too, our Saint Joanna Antida shone brightly, who, in the depths of her heart, believed herself to be inferior to all, and demonstrated this in her actions. It is permissible to have this matter confirmed by witnesses; for Witness III says: "Regarding her humanity, I testify that she always abstained from any luxury, and she was always respectful and of excellent manners with everyone without distinction. She always recommended poverty and simplicity to her subjects, and she herself was an example of poverty and simplicity." And Witness XVII says: "In humility, the Servant of God distinguished herself greatly, for, as I have learned from what the aforementioned nuns have told me, she never showed any attachment to her own opinion. Regarding her subjects, she never called herself a superior, but rather their most beloved mother; she showed such affability, charity, and gentleness towards her subjects that the nuns loved her dearly and frequented her with devotion. In the rules, she wrote that the nuns, in the halls of the hospitals where they serve, should greet the poor and the sick who are there." But the humility of our heroine shone forth very brightly in the oppositions that the Archbishop of Besanzone unjustly inflicted upon her. For Witness XII says: "These modifications made by the Holy See caused great troubles for the Venerable Servant of God on the part of the Archbishop of Besanzone, who wrongly believed that she had proposed the modification regarding the General Superiorate. Meanwhile, the Servant of God very virtuously endured those troubles, distinguishing herself by heroic resignation and great humility." To which Witness XXXI adds: "When the Servant of God presented herself at the door of the foundation house in Besanzone to communicate the rules with the approval of the Pope, having learned that, by order of that Archbishop, she could not be received, she did not insist."

[*Latin ed. p. 438*]

458 FROM THE SACRED RITUAL, but with great humility, she resigned herself and withdrew. In this manner, the Servant of God gave clear proofs of heroic virtues, whose fame prevails there even to this day. Regarding, finally, the vow, which is said to be special, she never neglected the care of the sick, neither after the abolition of the Daughters of Charity, nor during the fury of the Gallic sedition, and although not without endangering her life, either at home or in foreign regions; and this is asserted by ample testimonies. Hear, I beg you, Witness I I: "From the same tradition, I have also learned that the Servant of God suffered greatly from the revolutionaries when the French Revolution broke out. In the grave evils to which she was exposed, together with the other nuns driven from their homes, she remained constantly steadfast in the fulfillment of her Christian and religious duties. Although persecuted by the rebels and threatened in her life, she did not fail to work in service to the sick." Nor is it otherwise with Witness X: "When the Institute of the Daughters of Charity was suppressed

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by the Revolution, the Servant of God went to her paternal home, as I recall having understood from the aforementioned persons, and there she continued to practice the works of charity, despite the vexations inflicted upon her by the Jacobins. Unable to continue her residence in France, in order to avoid the efforts of the revolutionaries, she went to Switzerland, where she joined a pious lady, whose name I do not know, and in her company she continued her works of assistance and care for the sick and the education of young women." Therefore, from these things which we have extensively described in this chapter concerning the observance of vows, it is clear that our Joanna was and will be an outstanding example to her sisters. CONCERNING THE FAME OF SANCTITY IN LIFE. The lights of heroic virtues which she displayed never so inflamed the Handmaid of God that she would allow her knowledge to be spread and propagated throughout the world, like a very strong cloud that lifts up, with swollen and frequent words, the gifts with which she labors, to the stars. How, then, could the services of so illustrious a woman, so many benefits conferred upon the human race, without any distinction of age, nation, or sex, be allowed to be overlooked in silence? The fame of good deeds, once spread everywhere, ought to be a witness to others, so that they may be drawn to imitation, for, according to the words of St. Jerome: "The works of salvation, without fame."

[*Latin ed. p. 439*]

From the Sacred Congregation of Rites, 459: "The fragrance of good deeds does not sufficiently shine before those who hear of them. Truly, the good works of Christ emanated so strongly from the actions of that woman that they benefited so greatly and so beneficially that kings and bishops vied to invite her to their regions and provinces, and the Roman Pontiff, master and head of the entire Church, sought her assistance. The poor and the needy lamented, and every kind of people celebrated her with the highest praises. From the records, we learn: 'As I myself know, and as it is well known within our Institute, the Servant of God, in addition to the houses she opened in the places mentioned in her response to question 20, was desired and called by King Joachim Murat, then in Naples, to open houses of our Institute in Naples as well. Indeed, she received from the aforementioned Sovereign our house of Regina Coeli, which had previously belonged to the suppressed Rochettine nuns, and there the aforementioned house was opened with the full knowledge and authorization of the diocesan ecclesiastical authority. After the house was opened, the same Servant of God, who resided in that house, was called to send her sisters to various existing institutions in Naples, such as the hospital of the Incurables, the Royal Educational Institution of the Miracles, and others, the names of which I no longer recall. It is also well known that the work of our sisters and the manner in which they

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have always conducted themselves under the direction of the Servant of God has always been praised as greatly beneficial to the Church and to society.' And Witness I states: 'According to the aforementioned tradition, in 1810, the Servant of God received an invitation from the mother of the Emperor of the French, namely Letizia, to whom the minister of Naples had addressed a request for sisters to assist at the hospital of the Incurables, the unfortunate state of which the civil government observed.' The same witness especially recalls the esteem that all held for the Servant of God: 'The Servant of God, in life, enjoyed a reputation for holiness because of her brilliant virtues, and this reputation she enjoyed not only within our Institute in general, but also among external people of every rank, class, and condition, especially among noble and high-ranking people, and among ecclesiastical dignitaries, bishops, prelates, canons, and parish priests, as well as among clergy in general, who have always admired the great spirit of charity with which the aforementioned Servant of God was animated in establishing and carrying out her works. The late Monsignor Narni, Archbishop of Cosenza, was her confessor at the time when he was a simple..."

[*Latin ed. p. 440*]

440. From the Sacred Congregation of Rites, the priest from Naila in our house of Regina Coeli in Naples was also a confessor of the Venerable Servant of God. He held the Venerable Servant of God in high esteem for her sanctity, as evidenced by various autographs preserved in the archive in Rome, at our general house. Therefore, it is clear that not only simple people and the uneducated populace held this opinion of our heroine, but also men distinguished for their learning, prudence, character, and dignity held her in high regard. It may perhaps be superfluous to assert that the reputation of Joanna Antida flourished among her sisters during her lifetime, but it is particularly relevant to note that even those sisters who, through injustice, had separated from that custom, nevertheless consistently held her in high esteem: "From our Sister Clarice Mantelli, as Witness VIII, still living, who was a contemporary of the Servant of God, we learned that the Servant of God, in life, was loved, esteemed, and venerated, both by the sisters of our Institute and by those outside who knew her; and this stemmed from the good that she accomplished through her great charity." And Witness III adds: "According to what I have gathered from this tradition, the Servant of God, in life, enjoyed a reputation for sanctity because of her virtues within our Institute. As for the houses in France which separated from our Institute, I have already stated above what happened as a result of the modifications made to our rules by the Holy See. Now, I add that I have never heard anything said to the contrary regarding this reputation of the Servant of God among those houses still separated from our Institute. The same reputation for sanctity consistently persisted after

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the death of the Servant of God, and this reputation extended beyond our Institute to those who knew the Servant of God and admired her charity." Nor is this surprising, as Witness XXXII states: "In the aforementioned senses, I have also heard praise of the same Foundress in general from the sisters who had conversed with the contemporaries of the Foundress, among whom I especially recall Sister Dorothea Mongein, who was the Superior General of Besanzone." And this, Most Reverend Fathers, should not surprise you: From her childhood, the Handmaid of God had gained the esteem of the villagers because of her outstanding piety and most fervent charity, as the witnesses, including Witness XXVIII, unanimously assert: "It is said that the Servant of God herself was a woman endowed with the spirit of piety and devotion, so much so that from her earliest years, her contemporaries..."

[*Latin ed. p. 441*]

FROM the Sacred Ritual, 441, even the young were struck with admiration. There still exists, as tradition teaches, a chamber in which the Most Holy One spent all the time that remained to her from domestic duties in prayer. And Witness XXIX: "In my youth, I remember with precision that the late my paternal grandfather was contemporary with the Most Holy One, Sister Joanna Antida Thouret. She spoke of her with praise for her outstanding piety, gentleness, and supreme love for solitude. For these qualities, she enjoyed the respect of all her contemporaries, who held her in veneration; these accounts in praise of the aforementioned Most Holy One, I have also gathered from the tradition that has always been constant in Sancey-le-long, and which is still passed down by many old people there with whom I have spoken." Who, therefore, could more eloquently and forcefully commend such a woman, if we dared to conclude this prayer with the words of Witness XV: "The Most Holy One, in life, enjoyed, because of her brilliant virtues, a reputation for great holiness in our Institute and in all the places where she was known, among all people."

CONCERNING SUPERNATURAL GIFTS AND MIRACLES IN HER LIFE.

This incredible fame was not only due to the outstanding holiness of this woman, but also to the miracles by which God willed to confirm this very holiness. Truly marvelous things are recounted about Joanna Antida Thouret, and these have been confirmed by suitable witnesses. We select the most important. Witness II recounts: "She told me, as she wrote in a letter, that Sister Henrietta, of whose surname I no longer remember, now deceased, asked the Servant of God if she would give her that girl, but the father refused, saying that he wanted her for himself. The same question was asked of the girl herself by the Most Holy One, that is, she asked her

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if she would go with her, and after receiving a negative answer, she added that one day she would go with her, but that she would not find her then. It happened that Sister Henrietta, twelve years after the aforementioned conversation of the Servant of God, returned to our Institute, after the Servant of God had already passed away to eternal rest. I no longer have the letter from Sister Henrietta, because after reading the same account in the life of the Most Holy One, written in France, I considered it unnecessary."

[*Latin ed. p. 442*]

442 FROM THE HOLY RECORDS, to preserve even the very letter which I tore. Even Witness X recounts almost the same thing. "It was understood in the community that the Most Holy Virgin, to her sister Vittoria Barthelemont, when she was still a young student, announced that her name would be Vittoria, because she would achieve many victories over those who would oppose her; and this came to pass during the life of the aforementioned Sister Vittoria." Furthermore, we have learned of the heroic deeds of our most virtuous woman, and, deeply moved by this, we reflect upon them. Who, besides this rural virgin, taught the mysteries of the faith so effectively that she surpassed even the most learned? Witness II clarifies the matter; listen to her own words: "From the aforementioned sisters, it was also understood that when the Most Holy Virgin was in her solitude, in which she hid for thirteen months in order to escape the persecutions of the revolutionaries, a handsome young man appeared to her several times, and on one occasion, he communicated instructions to her concerning the mysteries of the Trinity and the Eucharist." What more need be said? It is narrated that "during the time of her flight, the Servant of God was sheltered by a pious lady, and wishing to leave after two days from the time that the same lady had received her, upon hearing this, the lady was saddened that the Servant of God wished to depart, and she made it understood to her that the Lord was guiding her, because during the night, when the air was darkened, she had seen a light shining upon the roof of the room where the aforementioned Servant of God was." Frequently, she also miraculously restored the health of the sick, of whom there was no hope, even when all remedies had been tried and had failed, as Witness II recounts: "The aforementioned Sister Vittoria Barthelemont, who was Provincial of Savoy, told me that our Foundress, while attending to the sick, had cured many from illnesses that were naturally incurable, and she usually cured them by giving them medals, which could not, in themselves, produce the effect of healing; this was a marvel even to the doctors who attended those sick." Furthermore, Witness XIV recounted a miracle that surpassed the power of nature: "The aforementioned Sister Antonietta Fui lier, who attended our Mother, told me that, on one occasion, when she was ill, she asked for a hot drink, but Sister Antonietta did not have a way to light a fire, as it was then night.

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Saddened, she told this to the Most Holy Virgin, who said to her:"

[*Latin ed. p. 443*]

FROM THE SACRED RITUAL, 443: Let us pray for the souls in Purgatory. Sister Antonietta prayed, and it happened that, contrary to all her expectations, a lamp was found in her hand, the precise origin of which she did not know, and thus she was able to fulfill the need of the Handmaid of God. Sister Antonietta spoke to me of this event as something miraculous." Briefly, let this suffice: might someone say that Joanna Antida was not endowed with outstanding supernatural gifts from God?

CONCERNING THE VENERABLE DEATH OF THE HANDMAID OF GOD, AND THE ATTENDANCE AT THE FUNERAL AND BURIAL. He whom God chooses among all men for glorious deeds, undoubtedly, even in warning, will, as in life, give an example, according to the opinion of St. Augustine: "He cannot die badly who has lived well" (de Doct. Christ.). Therefore, let us contemplate here, as she approached her death, the admirable Handmaid of God, whom we have still seen alive, shining with the most outstanding virtues, a new and even more glorious triumph. But lest we seem to assert this gratuitously, let us gather more serious evidence from the documents. In the month of May of the year 1826, the Handmaid of God was struck by a sudden apoplexy in Naples, and the same affliction recurred on August 24th of the following month, when she had already passed her sixtieth year and more than sixty years. Unfortunately, the severity of the illness immediately led to a premature death. But her entire life had been a most diligent preparation for death, at every moment of time, so that the Bridegroom might find her prepared when He unexpectedly arrived. "The Most Reverend Madame Thouret," says Witness XI, "died on August 24, 1826, in the house of Regina Coeli in Naples, of apoplexy, which had struck her in the preceding May; an illness which, although it caused her to recover somewhat, recurred in the aforementioned August and brought about her death. Before suffering the last attack of the illness, she eagerly awaited the opportunity to complete the works prescribed for the Jubilee granted by Pope Leo XII." As the illness raged, and with no hope of recovery remaining, she conformed herself to the divine will, as is stated by Witness VIII: "It is well known that the Handmaid of God died in our house of Regina Coeli on August 24, 1826, of apoplexy, with profound resignation and with great piety." The same piety is also attested to by Witness XIII, who received this from Sister Victoria Mantelli, who was present at the death of the Handmaid of God: "Your sister, Sister Victoria Mantelli, was contemporary with..."

[*Latin ed. p. 444*]

444 FROM THE SACRED RITUALS, I am informed that, although this woman, oppressed by the power of evil, could not speak, yet from her de-

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meanor it was clearly seen the fervor of piety from which she was animated. "How much she refreshed her soul with pious and devout words in her final moments, and she was comforted with holy oil: what more? A marvelous sign appeared in the mouth of the dying woman, from which those present believed that the Handmaid of God immediately, after her death, ascended to heaven, leaving her body behind. "Concerning the death of the aforementioned woman, I recall having been told by Sister Melania Mantelli, who died three years ago, that having been present at the death of the Servant of God at the very moment that she surrendered her soul to God, she saw with her own eyes a luminous globe above the bed, which soon vanished." Furthermore, Witness X, in a single phrase, encompassed everything that can be said about her death, affirming that it was a precious death, like that of the saints: "From what I have generally understood, her death was precious, like that of the saints." As for the funeral and the inhumation of the body, I do not think it is necessary to elaborate further: it will suffice to recount what Witness III has said among others: "After the Servant of God died, her body was exposed in her room, and the following morning, as I myself saw, her portrait in oil was painted by the artist. Then the body was transported and exposed in our church of Regina Coeli, where solemn funeral rites were held. During this exposition, I saw that an extraordinary number of faithful of every class, rank, and condition came, who were drawn by the great reputation of holiness of the Servant of God. After two days, as far as I can recall, the same body was buried beneath the floor of the chapel dedicated to the Immaculate Conception in that church: a chapel which is the third to the left of those entering through the door, and the tomb is located to the side of the altar in that chapel; the tomb itself was covered with a marble slab on which is inscribed a Latin inscription, which recounts the characteristics of the Servant of God." The following is the text of this inscription:

[*Latin ed. p. 445*]

FROM THE SACRED RITUAL, 445, point G. Joan Antida Thouret, foundress and directress of the Institute of the General Charity. After having dedicated all the days of her mortal life to serving God, both personally and through others, and after having brought sisters and novices from the Gallican lands for the edification of her congregation, she died at the age of 61, on the eighth day before September. Sister and mother of all, she was highly esteemed. In the year 1826, nations and peoples flocked to her tomb, eager to participate in her ardent charity and benevolent humanity, remembering her benefits, imitating her virtues, especially the sisters, whose lives and strength, like the precious phoenix, are undoubtedly inspired by the remains of their most beloved mother: "Often," says Witness III, "I am accustomed to visit the tomb of the Servant of God, and to commend myself to her, and I have seen that other sisters

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also come to that very tomb, some of whom have come from other cities to Naples." Other witnesses assert the same, and also Witness XI, whom we know to be a priest: "When, in 1890, I came to the house of Regina Coeli to obtain information about the documents needed to publish the life of the Servant of God, and after returning on other occasions, I visited the tomb of the Saintly Lady." On the day of March 26, 1895, when the Bishop of the Neapolitan diocese examined the body of the Servant of God, a large number of sisters were present, as Witness XV testifies: "The same body, in my presence, was canonically recognized by this archdiocesan curia, which placed it in the aforementioned tomb, where it still lies. This examination was carried out with the doors closed, and the entire student body, and many others, were present."

[*Latin ed. p. 446*]

446 FROM THE RECORDS: "Our Order's foundation also originated from distant lands, from Rome and other places." However, the tomb of this exceptional woman is the entire world, and her monument is not merely the inscription on the tomb, but also the unwritten memory that remains firmly in the minds of men, not in tombs constructed from mere material. ON THE FAME OF HOLINESS AFTER DEATH: This local renown and the praise of the deceased woman, repeated by all voices, did not cease over time, but has grown greater and more illustrious to this day. To this point, Witness II states: "The aforementioned fame has been constantly maintained in her death, and from her death until today, I must testify, based on my personal knowledge, that this same fame has always been increasing; for miracles have been verified through her intercession, by those who have requested her images. That this cause for beatification and canonization has not been promoted previously is solely due to the conditions of the times, and never because the aforementioned fame has diminished, either within our Institute or among those who have generally become aware of it." Furthermore, this unwavering opinion regarding the heroic virtues of Joanna Antida did not merely permeate uneducated individuals and the credulous populace, but was a single voice among all, even the most prudent men. All considered this Virgin to be holy, and they consider her to be so, and they desire that she quickly attain the honors of the heavens. This is evident from the proceedings, for Witness II stated: "The Sisters of our Institute have not influenced the spread of this fame in any way, because they have always committed themselves to divine providence, which, especially in our times, has given the impetus to promote this cause, which is generally considered worthy of being pursued. The current protector of our Institute, the Most Reverend Cardinal Parocchi, Vicar of His Holiness, was the first to give the impetus to the beginning of this Cause, which he judged worthy of being introduced, and so too judged another Most Reverend Cardinal belonging

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to the Holy Congregation of Rites, whose name and surname I do not recall." I myself, for what I know...

[*Latin ed. p. 447*]

From section 447 of the *Rituum*, I have learned, I have always known, and I hold our Holy Founder to be a great saint, and I must declare that everything I have stated in her praise is far less than the esteem I have for her; being fully convinced that she was twice a martyr, both for what she suffered at the hands of the Revolution, and because she so completely devoted herself to the glory of God and the good of others. Furthermore, the reputation for sanctity, of which we are speaking, and which we have seen, until very recently, to have remained intact and unblemished, must be attributed to the time in which she lived: to the subsequent years; and finally, to the present age, in which it shines with new light, due to the ordinary process of canonization recently completed in Naples. Therefore, with regard to past times, it is not unreasonable that the testimonies of those who lived with her should be worthy of remembrance, especially among those among whom her memory still remains indelible, if we are to believe Witness XXVIII, who testified with these words about the renowned virgin: "In the aforementioned parish, as I know from certain knowledge, the Servant of God Thouret enjoys a reputation for sanctity, and there veneration for her is alive and has been alive; so that both the pious and even those who are not outstanding for their piety, do not cease to invoke her." What more? Listen carefully to Witness XXIX: "In my country, the Servant of God has always enjoyed a reputation as a truly extraordinary woman, but it was not spoken of openly, because the occasion did not arise. But since my fellow citizens were asked about her life ten years ago, the reputation and opinion about the Servant of God were brought to light, and at the present time, I must testify that she enjoys an explicit reputation for sanctity among us." She earned this reputation for sanctity among her own Sisters, as Witness XV testifies: "In 1841, I entered the Institute of the Sisters of Charity, and I was admitted to our house of Santa Margherita in Vercelli, where I made my novitiate. There, the Superior, who was Sister Antonietta Rollier, called our Holy Founder, Sister Giovanna Antida Thouret, and told me that she had been a great saint, and that Rollier was a contemporary of the same Founder. Furthermore, I later heard about the same Servant of God from other sisters, who were contemporaries, including Sister Clarice Mantelli, who is still living, and her deceased sister, Sister Melania, and they all praised the Servant of God as a true saint endowed with extraordinary charity; and I add that, in general,..."

[*Latin ed. p. 448*]

448. From the Sacred General Ritual, the aforementioned Servant of God was subsequently praised within the Institute as a true saint, so that I can

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attest, based on my own knowledge, that from my entry into the Institute until today, the reputation of the holiness of Thouret has consistently remained. "Furthermore, I shall not pass over in silence what the witness XI reported, that Sister Clarice Mantelli said: 'The aforementioned Sister Clarice Mantelli, whom I consulted, when speaking to me about the death of the Servant of God, wrote me the following words, referring to the Servant of God: 'She left us orphans, but she assists and comforts us from Heaven.'" Nor does the fame diminish with the passing of years, but rather, the praise increases. However, let us briefly summarize. It will suffice to recall what the third witness presented, namely, that it is openly evident, not only among the sisters who still associate with her, but also among those who have withdrawn from obedience to the Daughters of Divine Providence, that the fame of her holiness has flourished and continues to flourish. "Since her death, the aforementioned fame has grown so much that a petition has been made to introduce this cause. Currently, the sisters of the houses that are still separated from our Institute, as reported by our current Provincial, Sister Maria Rubin, have greatly benefited from the introduction of this cause, and have clearly expressed that they consider the Servant of God to be a saint." I could add more, but considering the duties and the time, I believe it is sufficient to say this: nothing has ever been related, acted, or written that contradicts the fame of the holiness of our heroine. Indeed, the memory of her has increased so much in our time that frequent letters from bishops, both from Italy and from France, have recently reached the Roman Pontiff, urging this cause for beatification and canonization, and among them, I consider those written by the Most Reverend Cardinals Celesia, Capecelatro, Manara, Galeati, and Mocenni to be worthy of mention. I also remember the letters sent by the bishop of Bisento, as well as by the clergy and the people of the town where the Handmaid of God was born, and I shall not overlook the praises and eulogies that were read in the public newspapers during the time of the centennial commemoration of the Handmaid of God. (follows)

[*Latin ed. p. 449*]

To the Most Reverend Archbishop of Vestmonasterien and to other Bishops of the Province, concerning Liberal Catholicism and Rationalism. Greetings and Apostolic Benediction.

It has always been our experience that the close union of Bishops with the Apostolic See, amidst the many duties and various difficulties, brings us not a little comfort. We have long known that you, Venerable Brothers, abound in this virtue, and we have observed the same in this present time; for you have brought our attention your common letter, addressed to the people, so that we might examine it, to see if it conformed to our judgment. These writings were found to be wise and weighty. You, indeed, placed as Bishops by the Holy Spirit to govern each part of the Church of God, know

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best what is required for the salvation of your people, and you prudently and timely advise and instruct them in what is necessary. The ruin, which, in part, presses down and, in part, threatens, arises from those most deceptive opinions, which are commonly designated by the name of Liberal Catholicism. You do not increase the magnitude of the difference that the term "Catholic" signifies among the English people at this time, but you express it clearly; and in your documents and precepts, you do not go beyond the truth, brothers. For what you have taught and warned about is all that has been frequently treated by our predecessors, distinctly handed down by the Fathers of the Council of Vatican, and not once or twice illustrated by us ourselves, either in speech or in writing. It is a most salutary counsel that you have given, to beware of Rationalism, which cunningly and insidiously spreads, and is no less poisonous to the divine faith. And in like manner, what could be more fitting than the precept that you have given concerning the obedience due to Bishops? For to be subject to and obey the authority of the Bishop is in no way an option, but rather a duty, and a most important foundation of the divinely constituted Church. Therefore, we greatly praise and approve of you in these matters. But what you lamentably mention, and rightly point out as things to be avoided, are, as you say, from the beginning, from Act. Tom. XXXIII. fase. CCCXC1I. 29.

[*Latin ed. p. 450*]

450 Letters originate from the fact that worldly affairs have held too much sway, causing the souls of Christians to recoil from their accustomed practices and to turn towards easier paths. However, to preserve the faith inviolably and to defend the cause of Christ, no human being can, without great and invincible constancy in the face of difficulties. Therefore, let them diligently strive to cultivate the souls of those who profess the Catholic name; let them defend the great work of the faith with the weapons of prudence and vigilance; let them labor more vigorously in the practice of Christian virtues, and above all, let them become accustomed to charity, self-denial, humility, and contempt for worldly things. We urge others to implore Almighty God to restore the entire English nation to its ancestral religion; and we have said that the power of achieving this must be sought through virtuous conduct and the innocence of life. Again today, we remind and implore you of the same. And for the sake of this cause, we greatly desire that the pious Sodalitas, founded under Our authority in the name of Mary, Mother of Sorrows, be spread and frequented. For it is indeed fitting that each Catholic should strive for the salvation of others, just as they strive together for their own salvation, and with all their efforts, strive for holiness itself. Thus, let your light shine before men, that they may see your good works, and glorify your Father who is in heaven. (Matthew 5:16). Finally, let there be with us a reverent observance of the Roman Pontificate; and if anyone among our adversaries attempts to elevate or cast

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doubt on its authority, let them be refuted by the unwavering judgment of the Venerable Doctor of the Church, Bede: "But therefore was blessed Peter, who, having confessed Christ with true faith, and followed Him with true love, especially that all who believe throughout the world may understand, that whoever separates himself from the unity of faith, or from the society of that unity, shall not be absolved from the bonds of sin, nor shall be able to enter the gates of the heavenly kingdom." (Homily, Book 16). As a testament to the favor of divine grace and the benevolence of Our paternal heart, We impart to you, Venerable Brothers, and to your people, Our Apostolic Blessing in the Lord. Given at Rome, near the Holy Peter, on this 11th day of February, in the twenty-third year of Our Pontificate. LEO XIII, Pope.

[*Latin ed. p. 451*]

451 FROM THE HOLY CONGREGATION OF THE COUNCIL AND ABSOLUTIONS, OR RAVENNA. OF MARRIAGES. June 14th and December 15th, 1900. Session 24, chapter 3. Concerning impediments to marriage. SUMMARY OF THE CASE. Octavius Guidi, a parishioner of Saint Demetrius, in the village commonly called Villa Acquarola, in the diocese of Gaesena, aged thirty-seven years, in the month of March of the year 1895, gave his affection to a certain Italian woman named Magnani, almost twenty-six years of age, of Gaesena, who held the office of teacher in the same parish of Saint Demetrius. Their mutual love lasted for almost two years, during which time letters were exchanged between them, containing sentiments of true love, and even promises of a future marriage. However, after this time, Octavius, as is said, was not entirely pleased with Itala's character, and was especially frightened by the threat of his father, who declared that he would disinherit him and banish him from the family home unless he renounced his love for Itala; therefore, he considered it best to send a message to Itala, postponing the complaints of Itala and his father, rightly reproaching them for the damage caused by this renunciation. Therefore, Octavius, intending to enter into other marriages, and knowing well that he would experience Itala's opposition in this matter, approached the Curia of Gaesena, and also summoned Itala to appear in court, so that, before an ecclesiastical judge, the nullity of the marriage could be duly proven, and so that she might, as she pleased, join herself to another. The Curia of Gaesena, after a properly conducted process, and after examining certain witnesses, on September 28th, 1898, issued a judgment in favor of Itala, declaring that a true marriage existed between them, and that it had not been dissolved by a notable subsequent change;

[*Latin ed. p. 452*]

452. From another side, the Sacred Congregation rendered justice to Octavius, declaring him free, because Itala had spontaneously withdrawn

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from the betrothal. However, this matter was brought before the Metropolitan Tribunal of Ravenna on October 17, 1898, requesting that the sentence of the Court of Cesena be declared null and void, and also stating that certain words found in a letter sent to Octavius on March 24, 1896, had been misinterpreted. The Tribunal of Ravenna, on June 20, 1899, amended the sentence of the Court of Cesena, only in the part where it stated that there was no proof of Itala having renounced the betrothal, and therefore Octavius could not be declared free; and furthermore, it condemned him to pay all the expenses of the proceedings. Therefore, Octavius appealed to the Sacred Congregation on July 15, seeking a definitive judgment on the matter.

SYNOPTIC DISCUSSION. DEFENSE OF THE MAN. First of all, Octavius's advocate recalls that there are two essential elements of betrothal, namely, "mention and promise, and the capacity of the persons." Therefore, according to the learned D'Annibale in *Opera Theologica*, Vol. I, III, there are no betrothals if the parties only intend to enter into marriage; if a promise has been made to the other party; or finally, if one party promises, the other party does not reciprocate or remains silent. Hence, in addition to certain decisions of the Sacred Congregation, those of the Sacred Rota in the case of Brundusina, on April 5, 1851, are brought forward: "From clear principles of law, it is understood that betrothals, as if they carried with them an indissoluble bond of marriage, and therefore, by their very nature, deprive a man of his natural freedom, require very strong and overriding proof; so that if any doubt remains in this matter, it must be judged entirely against the existence of the betrothal." Therefore, since betrothals have the nature of a bilateral contract, they necessarily require a promise from one party and a reciprocal promise from the other. Indeed, the advocate argues, what is contained in the letters written by Octavius rather indicates a certain inclination towards betrothal.

[*Latin ed. p. 453*]

CAESENA. OR RAVENNA. 455 "They seem to wish to demonstrate their willingness to be bound. Hence, he recalls, the Sacred Congregation did not consider valid the marriages begun with these formulas: "I will marry no one but you"; or "except for you"; "if not you." Ventimiglia, June 1, 1709; Milan, July 13, 1725; Savona, May 8, 1886. Therefore, he argues, it is not of great importance what Octavius expressed in Italian, often driven by the heat of passion, which usually leads to unfortunate outcomes. Furthermore, the advocate continues, even if we were to admit the promise on the part of Octavius, the reciprocal promise, that of Itala, does not appear clear. Indeed, in their mutual relationships, she does not seem to refer to entering into a future marriage with Octavius. On the contrary, in a certain letter written by her, she says: "I have not been, nor am I insensitive to the constant proofs of esteem and affection that you have shown me for so long,

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but I must not, I cannot reciprocate them!..." Also, "If the parents of Guidi are a strong obstacle to our union, they are not an obstacle to our love. And this is what my soul aspires to! I do not desire to change my state! No... whatever they may say or believe, I pray, I have not, I am not, and I will never be, for now, the object of marriage." "Tormenting doubts assail me, and sometimes they take on such a form of reality that they steal from me that sure peace, which is a beautiful rest, that your love is!" Nor is there in the process any indication that she made a promise orally. The witness, Maria Pizzinelli, if she has anything relevant to say (although this is subject to suspicion, since she appears to have an indignant attitude towards the Guidi family), it is not certain on what basis she supports her assertion, to prove that a true marriage existed between Octavius and Itala. Indeed, Octavius himself seems to have renounced his love for Itala: thus she writes: "The other evening she told me: 'I am sorry to have declared my affection to you! It would have been better if I had continued to keep it hidden from you! I will not, in the future, have to recall these words to reproach you for having, without reason, kindled a flame in my soul that should..."

[*Latin ed. p. 454*]

454 "Was I nearly blinded for a moment, only to be thrust back into the painful darkness of contempt and lost happiness?" Thus, the Advocate concludes, that the true betrothal between Octavio Guidi and Itala Magnani did not exist; and although there were promises on Octavio's side, it could never be said that they had the force of an obligation, since another condition was lacking, namely, the promise on the part of the other party, namely, Itala. Proceeding to the second part of his argument, the Advocate argues as follows: "Even if we were to admit that a betrothal existed between them, it was nonetheless proper for Octavio to withdraw from it. For, according to the common opinion of both the Holy Canons and the theologians, a betrothal, even if confirmed by an oath, can be dissolved under certain circumstances. Indeed, as the esteemed D'Annibale states in § 513, I, III, among the causes for which a betrothal can be dissolved, are included those 'in which one of the parties would not have entered into it'; and further below in § 514, he adds 'that in order that marriages begun less spontaneously may not have difficult consequences, this other condition is understood to be inherent in betrothals, namely, that the circumstances remain the same.' This is confirmed by Sánchez I, 62, 4; and St. Alphonsus VI, 876. Furthermore, while certain circumstances of this kind are enumerated, it is asserted '(Note 11) from h. 42, De Rit. Nupt.; St. Alphonsus VI, 851, 9, 3) that 'if the parents take it very badly, even if they had previously consented (Spor. 280); if hatred, etc., are feared (St. Alphonsus 887). Also, if he were to suffer some grave misfortune in domestic affairs; or if this loss is such that, for example, the father is prepared to disinherit him (Pont. X II, 17, 18), or, as some believe, a gain, for example, if the man finds himself much

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richer (St. Alphonsus 879); for if he had foreseen this at the time of the betrothal, he would not have entered into it.'" But, the Advocate continues, even if the existence of the betrothal is admitted, can it be said that Octavio wished to enter into a betrothal of this kind, if he had foreseen all that was to come? Are not the constant complaints, reprimands, and indeed very serious threats of disinheritance, as Pompeius, Octavio's father, asserted to the judge, a testament to this?

[*Latin ed. p. 455*]

CAESENA. OR RAVENNA. In the year 455, a marriage, known especially for the probity and honesty of Pompei, should not be lightly dismissed; indeed, as the Council of Trent states in Session XXII, Chapter 20, paragraph 1 of the Decretum, "the testimony of these persons [namely, the parents] is received, when their faith is manifest, and such testimony is necessary." All Canonists agree that such testimony should be admitted not only in matrimonial causes, but also in other similar cases. This is confirmed by the decrees of the Sacred Congregation of Councils in matrimonial causes, dated May 9, 1869, and May 8, 1886, in which relatives were called to give testimony. Who does not know that the mother of Octavius, deeply concerned about the actions of her son, was so afflicted by daily anxieties that she seemed to despair of his salvation, as many witnesses attest? It is also known that Octavius, believing that the marriage, if it were to be admitted, would be a source of hope that his parents would eventually cease to oppose it, as is evident from their letters; however, when his parents seemed to be increasingly at odds, he rightly, considering both his own well-being and the love of his parents for Itala, decided to abandon the project, as he writes in a letter sent by him to Itala. Furthermore, Octavius's advocate does not overlook the fact that, when someone seeks to cultivate love, they intend to ensure that a true union, both of body and soul, can exist between them; indeed, who does not know that they always secretly fostered love, and that was done only through writings? Certainly, this kind of activity, as is customary, cannot fully reveal the nature of the soul. Therefore, what is surprising if Octavius, having once learned of Itala's character, which was far from pleasing him, and having suffered no injury from her, turned his attention to another, and abandoned her to her own affairs? Furthermore, the advocate attempts, by all means, to refute the claim that Itala opposed Octavius's marriage, seeking new unions. He is mistaken, and speaks without due consideration.

[*Latin ed. p. 456*]

456. We strive, from the Holy Council, to examine these betrothals, when such discord exists among them that peace seems altogether unattainable. "For betrothals ought to be freely entered into, and the woman should be urged rather than compelled, since coercion often leads to unhappy out-

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comes." Perrar, *Bibliotheca Canonica*, Vol. V, *De Sponsalibus*, n. 113; *Decretum*, c. *Requisivit* 17 *de Spons.*, where these words are found. Finally, the defender, presenting an irrefutable argument, endeavors with all his might to prove that the Italian lady truly withdrew from the betrothal. He asserts that the entire edifice of these betrothals, between Octavius and the Italian lady, rested solely upon love. Therefore, once this foundation is removed, it will manifestly become clear that the betrothal has failed. Indeed, if the mutual promises of both parties originated in order to establish a future marriage from love, then, once the cause, or love, is removed, the effect, or the betrothal, must also be removed. He then brings forward that most famous letter written by the Italian lady to Octavius on March 24, 1896, in which it is written: "Do not deceive yourself with vain flattery, or, if you wish, try again to regain my love, to which, I must declare from the outset, I have willingly renounced..." Then she adds: "...and therefore, let there be REST for that love, and NOTHING MORE." From these words, the defender argues that, since he asserts that the Italian lady has ceased to love Octavius, he cannot admit, but rather marvels that she should wish to preserve her rights and claims against him, when, further on in the same letter, she writes: "Your promises and your oaths are my safeguard and the guarantee of my rights, to which I do not renounce." Furthermore, the advocate adds, love is so necessary for betrothals that, according to the defender, the contrary seems to oppose both religion and morality, and to be disastrous for human affairs. Therefore, if the Italian lady has ceased to love Octavius, it must also be said that she has ceased to be betrothed, since these betrothals cannot exist without that love. What, then, of the rights that the Italian lady brings forward?

[*Latin ed. p. 457*]

CAESENA, OR RAVENNA. 457. DEFENSE OF THE WOMAN.

The defender of the Italian woman, seeking to secure the validity of the marriage rights, presents three arguments: a) that the marriage was validly contracted; b) that it was never dissolved; c) that the plaintiff has presented no valid reasons to declare himself free from the obligations contracted with the Italian woman.

Regarding the first point, he recalls that, according to canon law, marriage is nothing other than "the mutual and deliberate promise of future marriage, expressed with a sensible sign between persons legally capable." Indeed, in all and each of the letters written by Octavio to the Italian woman, and by her to him, it is evident that, apart from the most certain indications of love, there is scarcely a letter in which a mutual promise of future marriage is not found. Certain passages are particularly revealing. Thus, in one letter, Octavio writes to the Italian woman: "My

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love for you is a loyal and sincere love, a holy love. Will I be repaid?" In another: "I swear to you that no other woman will ever approach my eyes to make me happy; I love you alone, and I will love you alone until I have life. United or separated, I will always adore you alone! I swear to you by God." "You were my first love, and as surely as God is true, you will be my last. You will be my companion, or no one. I will remain young, but I will always love you." "I have promised, and time will prove me right; remember it!!! You will be mine." Furthermore, in another letter: "Know and remember that even if we are separated for now, I will always love you; God knows it." "I have sworn before Christ, and I repeat to you for the millionth time that time will prove me right; I have only one word, and I have never sworn falsely." "...I will not suffer pain in not being able to unite with you for now." In another, it is written: "If we cannot unite for now, my love will not diminish; the height of happiness will be the day when I can call you my wife." "When will that day be when I can call you my wife?" "Let people say what they want; we love each other, we love each other, and we will love each other until death." We omit many other expressions of love.

[*Latin ed. p. 458*]

458 FROM the Eighth General Council concerning Italy, considering the future marriage. It is beneficial to mention what the Lord Turchi, Octavius' uncle, wrote to him (March 12, 1896, n. 8, *Documenti del Guidi*): "When I wrote you my well-known letter, I was not aware of many and important details of your love, namely: 1. that your love correspondence had existed for a long time; 2. that you had also given solemn promises in writing to your beloved (Italy); 3. that, as proof of your affection, you had even incited the latter to elope, which was rightly rejected by her. But, my God! Do you not see from yourself that all these facts are too eloquent to conclude that you must keep the promises you have made, that is, to fulfill the repeated oaths, both spoken and written?" Nor does it seem that there is a lack of reciprocal promise on the part of Italy. This is testified by the letters sent by her to Octavius, which were later returned to him. Indeed, Octavius himself, writing to Italy, confesses: "I do not pass an evening without rereading some of your letters, especially those filled with loving expressions for me." He also writes: "Should I not feel pain at not being able to unite with you at this time, believing that you correspond sincerely and loyally with me?" Italy, in turn, wrote to Octavius: "The links of a chain may be kept separate for a material connection, but that which already unites two hearts with so many secure links can never be broken!" And in another letter: "In such a communion of ideas and feelings we live, although unfortunately forcibly separated." She also wrote: "If my parents (the Guidi) are a strong obstacle to our union, etc." Moreover, Octavius implicitly confesses a reciprocal promise on the part of Italy, when, writing to her father on March 7, 1896,

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he said: "I leave her with FULL LIBERTY." For he would not have written this unless he was referring to their mutual promise, from which he wished her to be free. Finally, the reciprocal promise on the part of Italy appears marvelously in a letter from her to Octavius: "Do not do me such a great wrong..."

[*Latin ed. p. 459*]

CAESENA, OR RAVENNA. 459. Do not doubt the sincerity of my feelings! You already know how, in these very days, I refused a future that others would have considered desirable in every respect, and... for you alone... I do not forget your promise: I know that a vow binds us! ! !. In the meantime, know that I remain unmarried and devoted to you; remember this! ! !.

Furthermore, why did Octavio respond with "attend to your own affairs" when Maria Guidi, in Pizzinelli, as the parties themselves attest, suggested that he grant Itala to another? He could certainly have revealed at that time that he was not bound to her by any bond. Nor can anyone say that all that we have presented up to now has no bearing on the validity of the betrothal, since they are merely words that, under doubt, constitute a betrothal; and indeed, according to the Canonists, these are by no means sufficient to declare the validity of the betrothal, unless, as Ferraris says, *v. Spons. §§ 38, 39*, a greater expression is added, or unless another intention is established or deduced from the circumstances. And all of these things seem to be lacking, as we have seen. Indeed, as we have seen, Itala's honor, the contrary will of her parents, the fact that the future marriage did not concern simple love, and Octavio's clear words to her parents, "I will wait for your death," to Itala, do they not manifestly demonstrate Octavio's firm intention, as we have seen, "I have promised... I have sworn... time will tell me right... etc."? And what of Itala's own deliberation? Proceeding to the second part of the argument, the Orator notes that the condition of the parties is now precisely the same as it was at the time of the betrothal, which began in March 1895. Therefore, since no change has occurred, and indeed, as will be better explained below, a change that would warrant the dissolution of the betrothal according to canon law, it remains to be investigated whether these obligations have been fulfilled by mutual consent. Indeed, we know that Octavio has renounced Itala, and in the meantime, has asserted his own freedom. Indeed, writing to Itala's father, he said: "Therefore, I cannot give her..."

[*Latin ed. p. 460*]

460 "EX S.C. CONCILII," [he] leaves full freedom to his daughter." And in the letter to Itala, "I wrote to your father my reasons once; is it not time to end this?... assert your rights... I will not yield." Is it not to be said that Itala receded from the betrothal? For, according to the adversary, the entire

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force of the argument seems to be placed in that letter which Itala sent to Octavius on March 24, 1896, which is cited above, and which is now brought forward by the same person. But from the context of the letter itself, it is clearly evident that the phrase "I renounce your love" does not carry with it the meaning of "I renounce the marriage that you have promised me." Indeed, we see that what is read a little later in the same letter asserts the contrary. It is written, "Your promises and your oaths are my safeguard, and the guarantee of my rights, to which I do not renounce." Indeed, what rights are these that she wishes to preserve for herself, we need not doubt, when they are clearly evident from the testimony of Octavius himself, who, in another letter, sent to her later, writes, "Assert your MATRIMONIAL rights." Furthermore, the principle put forward by the adversary seems to lack valid reasons and is not based on the principles of law, namely, that betrothal cannot exist without love. If this is admitted, then it must also be admitted that love constitutes an essential element of the betrothal itself. But in the definition of betrothal commonly accepted by canonists, namely, that these are "a mutual and deliberate promise of future marriage, expressed with a sensible sign between persons legally capable," no judgment is made about love, except for the word "deliberate," which otherwise seems to imply a certain awareness and freedom. Therefore, although it is more fitting, and there is a great difference, that love should be present in betrothals, since these tend towards marriage, which, in order to be well-founded, certainly requires love; nevertheless, it does not contribute to their validity, provided that the other things that pertain to their essence are verified. Indeed, in almost all of Itala's letters, it is clearly evident that she...

[*Latin ed. p. 461*]

CAESENA. OR RAVENNA. In the year 461, not only was a love affair promised to Octavius, but marriage itself; and we have a remarkable document, among other things, to attest to this, namely, that Itala, in order to keep the promise she had made to Octavius, did not hesitate to reject another opportunity offered to her, and indeed, one no less advantageous. Why does she even declare herself willing to wait for the death of Octavius's parents, who were opposed to this marriage? Finally, the Defender of the Marriage strives with all his might to refute the reasons presented by the advocate, who, of course, was acting in favor of Octavius. And first, with regard to the threat of disinheritance that Octavius allegedly made to Pompeius, as the advocate himself stated before the judge, the advocate observes, considering the nature of the testimony, that this should not be given much weight, since it concerns the father testifying in favor of his son, or rather, giving testimony about himself, in which collusion can easily occur. It is well known that the principle of law states, "No one is considered a suitable witness in his own case." Nevertheless,

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even granting this, the question arises as to whether the prohibition of the parents is of such weight that anyone can freely renounce the fidelity promised in the betrothal. Moreover, according to canon law, although it is fitting that the consent of the parents should also be present, the consent of the children and daughters alone is sufficient. Furthermore, we know that not just any reason is required to object, but a just reason; and this is expressly declared by the Sacred Congregation of Councils in Mediolan, Sponsal. 13 July 1725. Meanwhile, the advocate points out that only the dissent of the parents gives someone the right to justly withdraw from the betrothal, provided that a significant change is present, and indeed, one that occurs after the betrothal has already begun. But in our case, Octavius was not unaware of the adverse sentiments of his parents, and indeed, before he himself pledged his fidelity to Itala. Nor could Octavius bring this dissent of the parents into the open with such confidence, especially since, as he strives to prove, it is not based on solid grounds. Indeed, what concern, I ask, was it of Pompeius to know whether Itala was suitable for domestic affairs, or not, if the man to whom she was to be joined was most eager to have her? This is known to all.

[*Latin ed. p. 462*]

462 FROM THE DECREES OF THE COUNCIL, that passage of Scripture: "For this cause shall a man leave his father and mother, and shall cleave to his wife." Indeed, marvelous virtues shine forth in Itala, whether one considers the nature of her own character, or her honesty, both religious and moral. Is it to be said that she desired to act rashly with Octavius? But, besides the fact that everything appears to the contrary from all the letters written to Octavius, we have other and more certain proofs of this. However, the adversary continues, Itala lacks a dowry, which we see is necessarily required by all when entering into marriage, so that, with some means, the burdens of marriage may be more easily sustained. But, besides the fact that this was already known to Octavius, as Itala herself wrote to him, we deny that she was destitute of any goods of fortune. Moreover, no mention of this disparity of condition was made by Octavius' father in his testimony before the judge. Therefore, there was no reason, even in this respect, for Guide's parents to oppose this marriage, nor for Octavius to withdraw from it. Nor, the defender of Itala observes, does the reason for Octavius' disinheritance by his father seem to be of great importance. For, besides the fact that, as we have seen, he already knew this beforehand, it is certainly not a total disinheritance that Pompeius must inflict, since this, as everyone knows, is prohibited by the laws; but rather, it is a certain portion of disinheritance, and that from the part of the father alone, since the mother never declared her intention of depriving her son of the inheritance of materna. Nor was this disinheritance to be feared by Octavius: for it is known that there was a certain agreement between him and Itala, that

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they would be prepared to enter into marriage as soon as their parents had consented to it; so that they would patiently await the death of their parents, so that they might more easily avoid this disinheritance. Thus, Joseph Magnani, Itala's father, wrote to Octavius: "I know that my daughter is willing to wait as long as she pleases." But, indeed, another reason weighed upon Octavius and his parents.

[*Latin ed. p. 463*]

CAESENA, or RAVENNA. 465. The Advocate notes that she is seeking to be released from the marriage bonds, specifically due to more advantageous nuptials with the Lady Leanzoni. Furthermore, he states, if I am not mistaken, that the principal reason for dishonorably denying the validity of the Italian marriage and invoking her own freedom lies in this. It is worthwhile to mention what is found in the defense presented by the aforementioned Italian woman – her self-defense.

First of all, she contends that she has suffered an unjust injury, namely, due to the actions of Octavius; for it is known that she was prevented from entering into a marriage, and indeed an honorable one. Moreover, she recalls that the threats of disinheritance made by her father were not of great significance, when it is well known that, in the cases of the marriages of the children of Augsburg and Alphridi, the father had previously opposed and then acquiesced, even though those marriages were clearly not more honorable. She laments the great harm that Octavius has caused her, even considering her social standing. Indeed, she states that she received a serious letter on this matter from the Curator of Studies (Provveditore degli studi). Furthermore, she complains about her health, which is now impaired due to this situation. She mentions that, eight days after Octavius abandoned her, he engaged in illicit relationships with a girl of lower social standing, and conceived a child with her. She repeatedly brings to mind the sanctity of the Judge's oath, which Octavius had sworn, and her own prudence and honesty in her dealings with Octavius himself.

Considering these matters, the intention was to postpone the decision regarding whether the judgment of the Court of Ravenna should be confirmed or overturned in this case. To this doubt, the response was: Postponed. It was deemed appropriate for the Holy Congregation to postpone a definitive resolution of the case, in order that, in the meantime, further investigation be conducted to determine whether there exist other documents attesting to the validity of the marriage, freely and mutually agreed upon, and especially to attempt to bring the parties to a reconciliation, with a suitable compensation offered by Octavius. After these matters have been completed, the intention was again to postpone the decision.

[*Latin ed. p. 464*]

FROM THE HOLY COUNCIL: A Question Regarding Whether the opin-

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ion of the Ravenna Curia should be confirmed or refuted in this case. RESOLUTION. The Sacred Congregation, after deliberation on December 15, 1900, decided to respond: There is a place for the determination of what is just and equitable by the Bishop of Cesena. - = c ^ NETO. CONCERNING OFFERINGS. On July 14, 1900, Session 25, Chapter 12, Regarding Reforms. By a Bull of Urban VIII, which was published on November 13, 1628, and which the General Vicar of Syracuse, acting as a delegate of the Apostolic See, executed on August 25, 1634, the Parish Church of Saint George in the City of Mothuca, in the Diocese of Noto, was elevated from a parish with a simple title to a Collegiate Church. However, scarcely had the Bull been issued when the chapter members interpreted it in different ways, and immediately the question arose concerning the administrators of the offerings made to Saint George, on the feast day dedicated to him, by the faithful in the Collegiate Church; namely, whether the administration of these offerings belonged to the entire chapter, or rather to the Prefect of the Church. The same question has now arisen between the current Parish Prefect, Antoninus Renda, and now, in his place, the Vice Rector, Antoninus Turlà, on the one hand, and, on the other hand, between the Canons of the chapter and the Canon Moneada and other Canons, who are said to be "supernumeraries." For these individuals enjoy benefices which were established after the aforementioned Bull, and the administration of these benefices is entirely separate from the chapter's funds. To resolve the dispute, the General Vicar issued a decree on November 15, 1894, in which he... (The sentence is incomplete in the original text.)

[*Latin ed. p. 465*]

NOTO. The Parish Priest, having been recognized as the administrator of the funds, was informed of this. However, Canon Moneada and other supernumerary canons appealed against this decree to the Metropolitan Curia. In the meantime, the Bishop of Noto, in order to reconcile minds and remove the scandal, during the official Visitation on June 5, 1895, proposed a settlement to the Parish Priest and the canons. The canons, even those who disagreed, having been duly summoned, assembled, and, after obtaining the votes of each, without any exception, on June 20 of the same year, the majority approved a settlement whereby the administrators of those offerings would be chosen by the Parish Priest, together with three canons elected by the Chapter, and the offerings would be distributed according to the intention of those who made them. However, Canon Moneada and other supernumerary canons did not agree to this settlement, and after a month, that is, on July 23 of the same year, they again appealed to the Metropolitan Curia. The Curia of Syracuse then accepted the appeal and issued a judgment on July 27, 1898, by which the right to administer and distribute those offerings was granted to the Chapter. When this judgment was reported to Canon Turlà on August 23, 1898, he and other canons of

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the Chapter filed an appeal against it, using the formula of doubt indicated below.

A SUMMARY OF THE ARGUMENTS: DEFENSE OF THE PARISH PRIEST AND THE CANONS OF THE MASS. Therefore, the Parish Priest and the canons of the mass, who constitute the majority of the Chapter, contend today that the administration of the offerings, which are made by the faithful in honor and devotion to the heavenly Patron, Saint George, belongs to the Parish Priest, excluding the Chapter, and that all of these offerings should be distributed in honor of Saint George; although even those who are members of the Chapter are content with the settlement whereby the administration of the offerings is entrusted to the Parish Priest and three canons elected by the Chapter.

[*Latin ed. p. 466*]

466 From the statutes of the Council, every three years, those to be elected will be chosen, and all offerings shall be allocated to the cult of Saint George. However, Canon Moneada and certain other canons, whether belonging to the Mass or not, contend that those offerings made by the faithful in honor of Saint George, after deducting expenses for the feast, ought to be given for the personal benefit and property of the individual canons, whether of the Mass or not, and that therefore, the administration of these offerings also pertains to the Chapter. The advocate for the Prefect, Antoninus Renda – now Antoninus Turlà – raises a preliminary question, which, according to him, is of great importance in this matter. He argues that Canons Moneada and his associates should be excluded from the judgment; a) because they are canons outside the Mass, or supernumerary; b) because they appealed to the Metropolitan Court against an extrajudicial decree of the Court of Noto; c) finally, because they themselves entered into a legitimate agreement to settle the dispute. According to the advocate, Canons Moneada and his associates have no standing in this matter, because they are supernumerary or canons outside the Mass. Therefore, they cannot be parties in this case, at least without the consent and mandate of the Chapter. For those things which are given for the benefit of the community, are to be dealt with collegially by that very community. Furthermore, it should be added that, even if the administration of the Church's goods has been granted to the canons of the Mass, by virtue of the bull of Urban VIII, it does not follow that it is also considered granted to the canons outside the Mass. Indeed, the Sacred Council has always held that new canons enjoy the active and passive voice, and other canonical rights; however, it has always made exceptions for those things which pertain to the interests and particular rights of the older canons, as can be seen specifically in Veliterna on December 20, 1851: regarding the doubtful proposition: "Whether canons of a second foundation have the right to participate in Chapter sessions and enjoy the

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active and passive voice in all cases," the response was: "affirmatively in all cases."

[*Latin ed. p. 467*]

NOTO. 467, exceptis iis quae respiciunt interesse et iura particularia Teterum canonicorum. Unde Moneada et socii, qui canonici supernumerarii seu extra numerum sunt, erant repellendi a iudicio. Orator deinde notat quod Archiepiscopo competunt iura, quae a iure sunt concessa. Iamvero, ius Archiepiscopo concedit iudicare solum in causa appellationis a sententia suffraganeorum, vel etiam in prima instantia, quando infra biennium causa in curia suffraganei non finiatur. Atqui, Decretum Curiae Netensis die 15 Novembris 1894, contra quod Moneada et socii ad Curiam Metropolitanam appellaverunt, non est sententia iudicialis. Etenim, quoad personas, non habemus nisi Vicarium Generalem absque assessoribus, advocatis, notariis, testibus, etc. Quoad formam, defuit oblatio libelli; defuit citatio; defuit adhuc litis contestatio. Nihil autem dicit orator de receptione testium, de probationibus, de conclusione in causa; quae omnia, iuxta ipsum, exulant in hoc iudicio, quod ipse Moneada saepe fatetur et Vicarius generalis confirmat. Ex quibus patet illud, Curiae Netensis decretum non esse sententiam iudicialem: proindeque, concludit advocatus, Moneada et socii, ad Curiam Metropolitanam appellando, non solum actum nullum fecerunt, sed et laedere, nisi sunt ius ipsius Episcopi, ad quem recursum tantum patebat, vel ad Sedem Apostolicam. Neque obiiciatur hic agi de appellatione extraiudiciali, quae aliquando datur. Nam constat ex iure, toto coelo differre appellationem extraiudicialem a iudiciali, et illam non nisi improprie appellationem vocari, cum sit non causae prosecutio apud iudicem superiorem, sed vera causae instauratio, seu prima in litem provocatio. Ergo, si deest iudex, si deest sententia, dari neque potest appellatio. « Appellare potest omnis a iudice iniuste gravatus », ait Ferrari, vide Appellatio, art. 1. Eo vel magis, inquit patronus, quod in hac quaestione.

[*Latin ed. p. 468*]

468 From the decrees of the Council, it is chiefly a matter of removing scandal, arising from discord, and since nothing is more contrary and harmful, especially in the spiritual governance of a diocese, than scandal, it has always been prudent for the ecclesiastical magistrate to reserve the judgment, whether in a judicial form or, according to the circumstances, in a purely political and corrective or administrative manner, as the canonists teach. Finally, the advocate observed that while proceedings were underway before the Metropolitan Court regarding the right of appeal, the Bishop of Noto, conducting a pastoral visitation of Mothuca, moved by the scandal, proposed an amicable settlement or convention in order to resolve the dispute and reconcile the parties, and he rightly availed himself

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of his authority in doing so, as a delegate of the Apostolic See (Council of Trent, Session 6, Chapter 4, and Session 22, Chapter 8). All the canons, including Moneada and his associates, heard and approved the proposal of the Most Reverend Prelate, and unanimously agreed on the matter to deliberate. And all, with no dissent, cast their votes, and, with no one objecting, signed the minutes of the chapter deliberation. From this, the advocate concludes: a) That all the canons decided to deliberate on the proposal made by the Bishop, so that the settlement would be valid if accepted by the majority of the chapter, and that deliberation itself would have the effect of resolving the initiated dispute; b) That the deliberation was serious and considered for some time; c) That the settlement was accepted by nine canons, against six who did not accept it; d) That none of the canons present raised any objection to the Bishop's letter, or to the time, manner, or form of the deliberation; e) That all present signed the minutes of the chapter deliberation, without any exception. Indeed, the advocate exclaims, it is clear to everyone that this settlement is a true cession of the dispute. For a settlement, as the very word expresses, is to move away from an action, or to withdraw from it, and to enter into a composition of a contentious matter, without a judicial form. The true effect of a settlement is pri-

[*Latin ed. p. 469*]

469. Marius and the essential matter of the litigation are brought to an end, hence a transaction is equated to a judicial sentence and a matter that has been judged. Furthermore, the orator adds, Moneada and his associates gain nothing by resorting to the necessity of an Apostolic Indult, which is required in the alienation, transaction, or commutation of ecclesiastical things, because here the matter at hand is not the alienation, whether proper or improper, of a sacred thing, but rather whether the right to administer this sacred thing belongs more properly to the Prefect-Parish priest according to common law, than to the Chapter according to a particular law derived from the Bull of Urban VIII. Moreover, the Apostolic Indult is not required in this matter, and this is increasingly demonstrated by the fact that all transactions carried out up to this point since the year 1628 on the same subject matter and by the same Chapter were carried out without an Apostolic Indult. Furthermore, if that doctrine concerning the Apostolic Indult were to be brought forward, it would be more fitting for the appellate judge to apply it to Moneada and his associates, who contend that the sacred thing, that is, the offerings made by the faithful in honor of St. George, should be administered for the private property and benefit of individual canons, as if they could suffice in the place of the heavenly Patrons with their own efforts, contrary to the express intention of the faithful. Finally, the transaction was not lacking in the Apostolic Indult, since it was proposed by the Most Reverend Bishop during the course of the sacred visitation, even as a delegate of the Apostolic See.

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— Moneada and his associates also raise a difficulty concerning the form of the deliberation. They allege that the deliberation is tainted by nullity because votes were cast by means of ballots from three canons who were absent. But this is in vain, according to the patron. For, a) this form is customary in that Chapter; b) not even any of those who dissented raised any exception; c) those ballots were properly admitted, and they had to be admitted, in order to prove that all and each, even those who dissented, were aware of the proposal made by the Bishop, had received notice of the convocation of the Chapter, and raised no exception as to time and manner.

[*Latin ed. p. 470*]

470. This [matter] had reached the end of the proceedings before the Sacred Council; d) and even if those three documents were to be considered of no value, nevertheless, the majority of the chapter, by a vote of seven to five, ratified the agreement: for a thing that is not useful should not be rendered invalid by its uselessness. Therefore, since a true agreement, or settlement of the dispute, had taken place between the parties in disagreement, Moneada and his associates could not appeal, and therefore they are to be dismissed from the case and rejected. Furthermore, according to the advocate, it must not be overlooked that the opposing party also appealed against this very agreement on June 20, 1895, and after one month, on July 23rd, that is, after the fatal ten days which are necessary for a valid appeal; therefore, the appeal is invalid, and if one were to concede anything at all, it is of no consequence. Finally, it cannot be said that Antoninus Turlà should be dismissed from the case because other canons did not appeal. For, besides the fact that only one person who feels aggrieved by a judgment can appeal to a higher court, in this case, others also joined themselves to the Most Reverend Turlà, as is evident from the declaration which is preserved in the records. This was noted by the advocate of Antoninus Turlà regarding the preliminary question. However, with regard to the merits of the case itself, he teaches that the question is one of merit; namely, whether all the offerings made by the faithful in honor of the heavenly Patron, Saint George, should be allocated to the honor of Saint George, or rather, after deducting the expenses for the feast of the holy Patron, whether those offerings should be allocated to the personal benefit of the individual canons. From this, he observes that only the Chapter, and the Chapter acting collectively, can take action against the parish priest or others; certainly not the canon Moneada and his associates, who do not have a mandate from the Chapter, and who cannot in any way represent the Chapter. Therefore, canons Moneada and his associates can only object, not regarding the administration, which belongs to the entire Chapter, but

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regarding the allocation of those offerings, which affects everyone.

[*Latin ed. p. 471*]

Therefore, whether the administration of all the goods of the church of Saint George's belongs to the Chapter or to the Rector; whether the election of administrators pertains to the same Chapter or to others; whether the parish priest should reside in the Chapter rather than solely with the Rector – all these are questions that are extraneous to the present case, the advocate stated. To prove that the offerings made by the faithful, in honor of Saint George, should all be directed to the honor and worship of that heavenly Patron, he cites the Bull of Urban VIII, by which the Collegiate Church of Saint George's was established. The Bull of Urban VIII distinguishes between two kinds of ecclesiastical goods in the Collegiate Church of Saint George's that were being established: namely, those goods which the Supreme Pontiff assigns as a dowry for the church and a suitable provision for the canons, and it speaks explicitly of other goods. From these words, the advocate concludes that Urban VIII intended to give to the church and the Chapter's table a dowry and a suitable provision from the goods existing in the Church of Saint George's at the time of its establishment, in order that, when the church was being raised to the status of a Collegiate Church, these goods should be set aside, except for those which have a specific use, according to the intention of those who established the endowments. This is also evident from the petition of the parish priest, and of the procurators or stewards, of that time. The advocate is astonished that Moneada and his associates would dare to allocate offerings made by the faithful, with the clear intention of dedicating them to the honor and worship of the heavenly Patron Saint George, for their own personal benefit. Furthermore, it is not likely that Pope Urban VIII intended to inflict such a serious injury on the intention of those who make the offerings, and the advocate believes that the Roman Pontiff could not have intended to change the intention of future offerers, except in each case and for a very serious reason; this, however, would always need to be demonstrated. And although, after this very important distinction, Urban VIII uses general terms in the same Bull, nevertheless, "in general grants, those things do not come which..."

[*Latin ed. p. 472*]

472 FROM THE DECREES OF THE COUNCIL, which no one would reasonably deny. Register of Canon Law, book 6. The Doctors unanimously agree, Reiffenstuel, volume 3, page 591: "It must be noted that, although, by custom or intention, the offerings are not intended for the Parish Priest but for the Church or some other purpose, the Parish Priest nevertheless has the administration of them, not so that he may appropriate them to himself, but so that he may apply them to the proper end, according to the

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custom of those who give." Thus, De Luca, Fagnanus, Bouix, Leurenius, Barbosa, and others. But, besides the Doctors, common sense and piety suggest that offerings, which are made with a certain intention, should be distributed according to that same intention. Consequently, the advocate says, the offerings made by the faithful in honor of the heavenly patron, Saint George, should be distributed according to this pious intention, and certainly not for the benefit of the canons. After these remarks, the defender of Antonini Turlà, lest he seem to abandon his position in this matter, wishes to discuss at length several points concerning two questions: a) whether the parochial rights, even habitual rights, belong to the Collegiate Church of Saint George, rather than to the Chapter, residing more with the Provost than with the Chapter, b) whether the selection of the administrators of these offerings belongs to the Provost-Parish Priest, or to the Chapter, although these questions, according to him, are irrelevant to the present case. Regarding the first point, the foundation Bull of Urban VIII, and the custom, should be examined. However, the advocate argues: a) that there is no mention in the Bull of any habitual care that belongs to the Chapter; b) that whenever the Bull speaks of the care of souls, it always entrusts it and fully reserves it to the Provost; c) that the Bull grants to the Provost the same care of souls that the titular rector of the Church of Saint George previously had; but the rector was, by full right, a Parish Priest; d) that the Bull stipulates that the Provost must, besides the care of souls, also have and maintain assistants, must hold the first place in the Chapter, in processions, and everywhere, must be the head of the Chapter, and enjoy precedence in all things.

[*Latin ed. p. 473*]

NOTO. 475 Finally, to remove all doubt, the advocate asserts that uninterrupted custom and practice, from the time of the Bull, that is, from the year 1628, until the present, prove that the entire care of souls belonged to the Provost. Moreover, the defender states, if the Supreme Pontiff wished to assign habitual care to the Chapter, he should have removed it from him who, for thirty-five years, peacefully and commendably possessed it fully and legitimately, and he should have expressed this in the Bull; but, indeed, he made no mention of it whatsoever. To all of this, the orator adds that, since collegiate churches are suppressed by the highest outrage, one Provost, like a parish priest, is recognized by secular authority. Turning then to the other question: whether the election of the administrators of those offerings belongs to the Provost or to the Chapter, he demonstrates that if the Provost enjoys habitual and actual suitability in the Church of St. George, it follows that the right to choose the administrators of the pious works, which are subject to the parish administration, also belongs to him. For it is understood that a parish priest can and ought to administer, either personally or through others, temporal goods pertaining to divine worship,

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and especially alms and the offerings of the faithful. From this history of the matter, the advocate infers that no sufficiently elegant reason can be deduced in favor of Moncada and his associates; rather, it can be proven that the matter was settled through a transaction and was always more in favor of the Provost of the collegiate church, or of the Rectors of other churches, according to the opinion of the very Bishop of Noto, who urges various points in favor of the Provost, and who, in this matter, should be considered as a competent judge in fact.

DEFENSE OF JOSEPH MONCADA AND HIS ASSOCIATES. On the other hand, the advocate of Joseph Moncada first proves that his client legitimately and duly filed an appeal against the sentence of the Court of Noto on November 15, 1894. Indeed, he says, the sentence of November 15, 1894, issued by the Court of Noto, was truly final, concerning the right to the offerings made by the faithful to the Holy George.

[*Latin ed. p. 474*]

474. Concerning the collection and administration of funds, as dictated by the decrees of the Council, [the court] dismissed [the case], and imposed a final judgment. Indeed, in the dispositive part of that judgment, the following is stated: "We have decided: The right to administer the alms of Saint George belongs to the Reverend Parish Priest, and not to the Chapter." Furthermore, with this established, the judgment declared the election of the administrators of said alms, carried out by the Chapter on July 15, 1894, to be null. "The election of the administrators of said alms, made by the Reverend Chapter on July 15, 1894, is null." Now, given these circumstances, no one can deny that Moncada rightly interposed an appeal on behalf of himself and his associates, since it is clearly established in law that a remedy by appeal remains available against judgments, whether definitive or having the force of final judgments. And this, the advocate continues, even if the aforementioned judgment is considered as merely an economic ordinance. For, according to the general rule of law, an appeal can be made against any decree of the Bishop, by which, as in this case, a grievance has been caused. Furthermore, the advocate responds to the objection raised against him, namely that the appeal proposed by Moncada could not, in any way, be admitted, because it was presented on December 1st, 1894, when the ten-day term for appeal had already elapsed since the judgment was rendered. He himself points out that the ten-day period begins from the day the judgment was rendered, if it was pronounced against the present party; but if it was pronounced against an absent party, that period begins from the day on which the absent party became aware of the judgment. But on November 15, 1894, when the Vicar General of Noto rendered the judgment, Moncada was absent; and he did not become aware of the judgment until November 26th of the same year, when the judgment was notified to him. Therefore, the ten days for appeal began to run from

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that day; and since Moncada presented the appeal on the first day of the following month of December, it is clear that this action was completed within the prescribed ten days.

[*Latin ed. p. 475*]

NETO. 475 Subsequently, Moncada duly followed up with the interposed appeal; indeed, on the fourth day of December, 1884, namely, three days after the appeal was made, he presented the document pertaining to this matter to the Registry of the Syracusanae Archdiocese. From this, it appears that the Archbishop of Syracuse, in deciding to admit the appeal against the judgment of the Episcopal Court of Netensis of November 15, 1894, rendered a just and proper judgment, in accordance with the law. After these events, the plaintiff demonstrates that the transaction of June 20, 1895, must be declared null and void. Indeed, a transaction is an agreement concerning a doubtful matter or a certain dispute, not gratuitous, but involving something given or promised. From this, the plaintiff argues that the transaction is inherently a bilateral contract, perfected by the mutual consent of the parties; therefore, if the consent of one party is lacking, the contract of the transaction is not valid. This precisely occurred in the chapter meetings of June 30, 1895. In these meetings, with the Bishop of Netensis present, between the Canon Prebendary Renda and his associates, and Moncada and his associates, regarding the right to collect and administer the alms offered by the faithful to the Patron Saint George, for which right the dispute was under appeal, the following agreement was proposed: "The Parish Priest of the Church of Saint George, together with three Canons elected by the Chapter every three years, will receive and administer said offerings, using them according to the intentions of the donors and the judgment of said Administrators." According to this agreement, the Canon Prebendary should always have administered the offerings together with three Canons elected by the Chapter, in accordance with the Patron. However, while the Canon Prebendary Renda and his associates fully accepted this agreement, Moncada and his associates rejected it; as is evident from the chapter deliberation of June 1895, the Canons, following the opinion of the Ciantri, did not consent to the Canon Prebendary of the Collegiate Church always administering the offerings, made by the faithful, together with three Canons elected by the Chapter.

[*Latin ed. p. 476*]

476. Those who administer the affairs of the Holy Council. If it is added that the parties involved stated that nothing was given, retained, or promised, it is impossible to conceive of a valid transaction. Therefore, the transaction in question concerned the right of collecting and administering the offerings made by the faithful to the Patron Saint George, a right which properly belonged to the individual Canons of the Collegiate Church; and

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this transaction should have been approved by all the Canons. But not all the Canons approved of the aforementioned transaction; hence, the Patron argues that the transaction itself is vitiated by nullity. Moreover, it should be noted that the contract also bound the successors, without the Apostolic approval being present in the matter. The lack of such approval is known in law to render a contract null. Thirdly, the advocate argues that the right of collecting, administering, and allocating the alms, which are given by the faithful to the Holy Patron Saint George in the Collegiate Church of Mothuca, belongs to the entire Chapter of that Collegiate Church. In the first place, there is the judgment of May 15, 1894, issued by the court of Netensi in the case pending between the Praepositus Renda and Moncada, in which it was established that the right of administering both the Collegiate Church of Saint George and its dependent churches did not belong only to the Curate Praepositus, but also to him together with the canons and dignitaries of that Collegiate Chapter, and that this was to be done jointly and capitularly. This judgment, the Patron notes, has become res judicata, and since no appeal was interposed by the Praepositus Renda against it, although it was announced to him through his representative, and because the parties have executed the same, the force of res judicata is evident, and the right of administering and allocating the alms offered by the faithful to the Patron Saint George must remain with the entire Chapter of the Collegiate Church, and the opponents, with regard to this right, cannot institute a new judgment, nor can they profitably continue the present one, for they are repelled by the exception of res judicata. Another argument that seems to favor the right of the Chapter is,

[*Latin ed. p. 477*]

NETEN. 477. The patronage was obtained from the Bull of Pope Urban VIII, issued on the Kalends of November in the year 1628. Indeed, in that document, the Supreme Pontiff elevated the Church of St. George in the city of Mothuca, which had previously been a simple parish church, to the status of a collegiate church. The words of the Bull are: "We hereby grant and confer the title and denomination, nature, and essence of a collegiate parish church, so that from this time forward, the Church which was formerly collegiate shall cease to be so, without any prejudice, and We perpetually suppress and extinguish it, and We likewise erect and establish the Church of St. George as a secular and collegiate church with a Chapter, stall, table, chest, fund, seal... and in it one Praepositura, which shall be the first and principal office for one Praepositus, who shall exercise the care of souls of the aforementioned parishioners of the Church of St. George, as was formerly customary through its titular Rector, this authority also being granted perpetually, without any prejudice whatsoever." All of these things were reported in almost the same words in the decree of August 25, 1631, in which the General Vicar of Syracuse, acting as a delegate of the

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Apostolic See, decreed that the aforementioned Bull of the Supreme Pontiff should be put into effect. From these facts, the speaker concludes that, as long as the Church of St. George was simply a parish church, one parish priest exercised the entire care of souls, together with all the parochial rights. After it was raised to the status of a collegiate church, the habitual care of souls was held by the Chapter, and the actual care was held by the Praepositus of the Chapter. "Therefore, when a church is collegiate, of whatever kind, it is also considered to be a parish church, or one that is cared for, and the care of souls, according to the disposition of the law, is said to belong to the Chapter or College, actually in the person who is delegated to exercise it." Thus writes Gratian concerning the matter of a parish. Therefore, the Chapter, which retains the habitual care, should be considered as the principal Rector, while the Praepositus who exercises the actual care should be considered as an accessory Rector, or rather, his perpetual Vicar, because he performs the duties of the Chapter and exercises the care of souls in its name. With this established, it is clear that the Chapter...

[*Latin ed. p. 478*]

478 From the light of the Sacred Council and regarding the sole moral entity responsible for the care of souls, the Chapter is constituted as such, and therefore the Chapter itself, together with the Rector, must collect, administer, and allocate the alms offered by the faithful to the Patron Saint George; which would only pertain to the Parish Priest, if the Church of Saint George remained simply a parish church. Moreover, in the aforementioned Bull, it is stated that the Supreme Pontiff grants to the Chapter, and not simply to the Rector, all rights, revenues, and emoluments, both certain and uncertain, even those derived from the exercise of the pastoral care and those customarily received and originating from the altar. Indeed, since the alms and spontaneous offerings made to the Patron Saint George by the faithful undoubtedly fall within the category of both certain and uncertain revenues derived from the exercise of pastoral care and customarily received and originating from the altar, which are assigned to the Chapter; it is certainly clear that the administration and allocation of these funds pertain specifically and separately to the Chapter itself, and not to the Rector. To these arguments, the advocate adds a declaration issued by a priest, Vincent Salerni, the first Rector of the Collegiate Church of Saint George, on the twenty-third day of the month of March, 1737, before the public Notary Scarso and the Canons and Dignitaries of the same Collegiate Church. In that declaration, while it was further confirmed that the habitual care of souls belonged to the Chapter (for in it, that Rector stated that the common seal of the Chapter should be affixed to all parochial acts, and that the seal itself, after Salerni's death, should be returned to the Chapter together with the parochial books), it was explicitly stated that the Rector, together with

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the Chapter, had the right to administer the Collegiate Church of Saint George and its affiliated churches. The words of the declaration are: "He declares and declares the election, creation, and institution of procurators, rectors, and all other officials of the sacramental churches and confraternities annexed to said Major Church."

[*Latin ed. p. 479*]

NOTO. 479: "To observe and to pertain both to the Prefect himself, as well as to the aforementioned Dignitaries and Canons, unitedly and capitularly." Indeed, the Chapter has continuously used this right from ancient times until the present. The patron confirms this first through all the accounting records concerning the aforementioned alms, from the year 1865 to the year 1879 inclusive, which accounting records are contained in the first volume of proceedings, deposited with the archives of the Sacred Congregation of Councils. Secondly, through capitular decrees, in which custodians and administrators of those alms were elected by the Chapter, namely the decrees of January 24, 1890, September 8, 1893, and July 15, 1894. Thirdly, through the testimonies of many citizens of Mothuca. To these arguments, the advocate adds the Capitular Constitutions, which the Bishop of Noto examined and corrected on February 20, of the year 1893, and approved. In Chapter XI of these, the following is read: "The Chapter administers the works pertaining to our Church, and the goods of the subordinate and suffragan churches." Finally, the defender says, the Chapter is the lord of the Collegiate Church, and of the altars erected therein. Therefore, since offerings to the patron, Saint George, are made in that church, it is evident that the administration and destination of these offerings pertain to the Chapter, by right of dominion, by which it holds power over the aforementioned church. It must be understood in this way, unless the Prefect proves that some right over the altar, which was dedicated to the patron, Saint George, had been reserved to him. With these considerations, the purpose was to determine whether the sentence of the Syracusan Court of July 27, 1898, should be confirmed or overturned in this case. RESOLUTION. After deliberation, the Sacred Congregation of Councils, on July 14, 1900, decided to respond: "The convention proposed by the Bishop and accepted by the Chapter on June 20, 1895, must be maintained in all respects."

[*Latin ed. p. 480*]

480 VICENTINA SOLUTIONIS, December 10, 1900. Session 25, Chapter 8, Concerning Rectors. SUMMARY OF FACTS. The priest Carlotto, on June 23, 1887, accepted the office of spiritual coadjutor in the parish of Saints Mary and Vitalis, Monticuli Maggiore, in the Diocese of Vicenza, a position previously held by Anthony Simionati, the archpriest, for the care of souls. Furthermore, Carlotto, along with his coadjutor duties, was also appointed as the administrator of the endowment of a certain Priest

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Rocchi Faccin, who, on June 6, 1849, with the authorization of the Bishop, had established a benefice of a revocable nature, with the obligation of daily Mass and the care of souls in the office of coadjutor. The assigned endowment was approximately 956 Lire. However, when Carlotto began his duties as coadjutor in 1887, this benefice had been subjected to the laws of the Italian ecclesiastical system, enacted by the Italian Government, and its income had been assigned to the sum of 525 Lire in Italian currency, payable as public debt to the Italian Kingdom (commonly known as "cartella del debito pubblico"), belonging to the assets of the parish church. Meanwhile, according to a decree from the Sacred Congregation of the Council issued in favor of the benefice, this sum of 525 Lire was to be spent in such a way that, after reducing the burden of Masses, an alms of six Lire would be given for each Mass celebrated on a feast day, and the remainder would be allocated to the same number of daily Masses as were permitted according to the diocesan tax. When Priest Carlotto accepted the office of spiritual coadjutor from Archpriest Simionati, it was determined, as the circumstances required, to establish a salary for the coadjutor; but although the benefice of Faccin had been assigned to him, no mention was made of its revenues or the obligations of Masses, especially concerning the decree for the reduction of Masses. Indeed, according to the records of the Vicenza Curia, it is not certain...

[*Latin ed. p. 481*]

In VICENTINA 481, it is established whether the Archpriest expressly informed his coadjutor, when imposing the burden of daily Mass, that for Masses celebrated on feast days, an alms of six *libellae* would be granted. For in that very judicial sentence, in which the Vicentine court settled the matter, which arose between the coadjutor and the Archpriest of Simoniati, concerning the payment of the salary due to the coadjutor, the facts are presented in a somewhat different manner. Furthermore, the coadjutor knew well that certain immovable properties formerly belonged to the coadjutor mansionary from the foundation of Faccin; and after inquiring at the Diocesan Archive, he had in his possession both the testamentary documents of Faccin and the decree of the erection of the mansionary, from which he learned that this endowment had been unjustly claimed by the Fiscal authorities, since it served the care of souls and was therefore exempt from Fiscal seizure. Indeed, the truth is that in the year 1891, through a judicial action initiated by the coadjutor himself, the immovable properties of the Faccin mansionary were recovered from the hands of the Fiscal authorities. Meanwhile, in order that Carlotto, the coadjutor, might be better informed to pursue the action of recovery against the Fiscal authorities, on October 23, 1888, he was instituted in the Faccin mansionary by Episcopal mandate. After these matters were restored concerning the Faccin mansionary, and after the year 1894, when the coadjutor Carlotto was removed from said

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mansionary and from the town of Montecchio Maggiore by Episcopal decree, he requested more from the Archpriest for his indemnification, and a lawsuit was brought before the Vicentine court, which rejected the priest Carlotto's claim in its entirety. He then instituted an appeal before the Metropolitan Tribunal of Venice, which partly confirmed the appealed sentence, and partly corrected it, or rather, concerning the fourth point; hence, today, the same head of the matter is brought into controversy under this doubt: "Whether the sentence of the Patriarchal court of Venice should be confirmed or rejected concerning the fourth point in this case." The appeal in question pertains to whether the coadjutor priest has the right to demand from the Archpriest...

[*Latin ed. p. 482*]

II : i i I ! 482 FROM THE DECREES OF THE HOLY COUNCIL concerning Simoniac, a certain sum corresponding to alms, of six lire, is due for festive Masses celebrated, which is the amount due for such Masses; whereas he has not received for those same Masses except alms of 1.75 lire. Indeed, in the dispute being contested before the court of Vicenza, the intention of the plaintiff, Carlotto, was to obtain "2142 lire (two thousand one hundred forty-two) by the difference in alms between the festive Masses established by pontifical decree and the tax of 6 lire, whereas he had instead been paid the Italian tax of 1.75 lire." The court of Vicenza issued a judgment of rejection. The Archdiocesan court of Venice granted something to the appellant, the priest Carlotto. However, instead of appealing, the Archpriest Simionati petitioned the court of Venice to grant him full restitution; he presented written receipts from Carlotto, in which he declared that he had received the mansionary fees from Faccin. Nevertheless, the court of Venice denied the petitioner full restitution. In the meantime, the deadlines for appealing have passed; therefore, since the petitioner is today before the Holy Congregation of the Council, requesting that the matter be submitted again to judgment by appeal, the first question is "Whether there is grounds for full restitution in this case." The Archpriest has presented certain arguments through his procurator. In the meantime, it is useful to note the latest Rescript of reduction granted by the Holy Congregation of the Council, which is recorded in the proceedings, and which is of the following tenor: "The parish priest of the SS. Maria and Vitale in Montecchio Maggiore, in the Diocese of Vicenza, obtained, through a rescript from the Holy Congregation of the Council dated July 5, 1886, a three-year extension of the reduction of the daily Mass to the festive Mass, with an alms of six lire, and the remaining Masses with the synodal alms, for the celebration of which he is entitled to a mansionary fee. Having expired the three-year period and the same circumstances persisting, the parish priest petitioner implores Your Holiness for another benevolent extension, with

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a retroactive sanction, regarding what has passed."

[*Latin ed. p. 483*]

VICENTINA 485 "On November 18, 1889, the Most Holy Lord, having heard the report of the Secretary of the Holy Congregation of the Council, with prior absolution regarding the past, and with careful testimony from the Pro-Vicar General of the Bishop of Vicenza, benignly decreed that, if the facts narrated are true, the requested extension should be granted for another three years, observing the form of the preceding decree, and that the Bishop should, according to his judgment and conscience, freely grant it to the Oratory."

Disputatio Synoptica. DEFENSE OF THE PAROCHIAL VICAR. Regarding the extraordinary remedy of restitution in integrum, the procurator of the Archpriest reports that Reiffenstuel defines it as follows: "Restitution in integrum is an extraordinary legal remedy by which someone who has suffered serious harm, according to natural equity, is restored, through the office of a judge, to the state or right in which he was before the harm occurred" (Ius can. univ. ad tit. 41, lib. I, 1, § n. 3). This remedy is granted if several conditions are met, primarily if it is established that there has been damage or, as they say, a violation: "Restitution in integrum is granted because of a violation" (Santi prael. iur. can. ad hunc tit.). Furthermore: "Restitution in integrum is an extraordinary remedy, because it is granted as a supplement to ordinary means when no action or exception is provided by law" (ibid.). However, the advocate notes that the injured party must make use of this remedy within four years. "The action to obtain restitution cannot be perpetual... but is temporary and four-year, and can be brought within four years" (ibid. n. 8). Because the last two conditions are certainly present, according to the advocate, it is necessary to inquire only whether the first condition is met, namely, whether it is established that there has been damage (a violation). In this regard, the advocate considers the interpretation that the Roman Rota, six centuries ago, confirmed that there is a violation when it is established that the sentence is unjust, which causes damage. "Damage is caused by someone who is deprived of something or a right by a judge's sentence. "Injustice in a sentence is the most powerful cause of restitution."

[*Latin ed. p. 484*]

484 FROM THE DECREES OF THE COUNCIL, concerning the matter of restitution, because it undoubtedly contains an injury. The Sacred Roman Rota, in the case of *Commendae* before Coccino, on March 30, 1615, decree 172, page 2, section 1, states: "Against an unjust judgment, restitution to the original state is due according to the chapter concerning injury resulting from the injustice." The same, in the case of *Piacentina Bonorum* before Bevilacqua, on December 2, 1661, decree 371, page XIII, section 4,

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states: "To obtain complete restitution, in order to effect the judgment, it suffices that there be any injustice, even if it is not notorious." (Likewise, in the case of *Anconitana Censuum* before Ubaldo, on May 24, 1613, decree 492, page 1, record number 1; in the case of *Toletana Parochialis* before Pirovano, on May 25, 1618, decree 660, page IV, volume 1, record number 1; in the case of *Camerinen. Fideicommissi* before Rondinino, decree 274, page 18, volume 1, section 1; in the case of *Hipporegien. Pensionis* before Meltio, on June 28, 1631, decree 187, page XI, section 41). "Given this," the advocate continues, "there is nothing else to demonstrate except the inequity of the judgment, in order that the requested benefit may be granted."

Meanwhile, the defender notes that the appellant should not be excused for a fault committed in due time. For the archpriest, being eighty years of age, has already reached that age in which, due to mental infirmity, those who delay are usually excused. "The infirmity of judgment of the injured party" (Sacred Council, cited, section 1). Indeed, he did not delay, because he believed that complete restitution would be granted by the judge himself. But the judge, delaying his response after the time for appeal had passed, denied the restitution. "The inequity of the judgment is now very clearly demonstrated," says the advocate, "if the documents presented by the archpriest are examined." Carlottus desires a supplement to the stipend for the Masses celebrated on feast days. He claims to have received the usual payment (1,75), but contends that a much larger sum (6) is due. But, the advocate replies, this is in vain, because he received a just payment; the amount that the archpriest owed him was paid. For the Sacred Council had decreed that six *libellae* should be given for each Mass. "The archpriest, possessing the document headed to the fabricaria, had obtained this from the Holy See..."

[*Latin ed. p. 485*]

VICENTINA 485: Concerning the raising of the alms from festive Masses to 6 Lire... and with the "civanzo" (of the total income of 525 Lire), so many Masses for manual alms as the said "civanzo" would provide. There are sixty-seven festive days in the year; the total collected is four hundred and two Lire (67 x 6 = 402). However, Carlotto claims to "receive 400 Lire annually," and he states that he dedicates almost two Lire per Mass, which he celebrates on each festive day, "applying always 1.75 Lire." He claims to have earned five hundred and seventeen Lire (1.75 x 67 = 117 + 400 = 517). The procurator notes that Carlotto does not deny having celebrated daily Masses for the coadjutor for a salary of 1.25 Lire. The patron insists that Carlotto cannot claim a greater remuneration than what was agreed upon in the contract, because the words used by both parties do not fully agree. The Archpriest states that he clearly explained what he would give for the Mass on festive days. And to confirm his words, he presents a witness, a

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priest. "When Carlotto, in July of 1887, was appointed by the ecclesiastical superiors as a coadjutor chaplain and mansionary in the parish of Saint Mary and Vital in Montecchio Maggiore, the Archpriest, in the presence of his nephew, Father Paolo Simionati, the first chaplain, said to him: 'Your obligations are the daily Mass in the parish, with an alms of 6 Lire on Sundays and holidays, and you will dedicate yourself entirely to the care of souls. You will receive 400 Lire annually, and the uncertain income and collections will be divided in half with the other chaplain.'" However, the judge himself, the patron observes, does not recount the matter in this way; and he affirms that the Archpriest omitted the matter of the Mass stipend. "Indeed, Carlotto went to Montecchio in July of 1887 to discuss the agreements with the Archpriest, and the Archpriest said to him: 'You will receive 400 Lire annually, uncertain income from the stall in third place without collections, and your obligations will be: daily Mass, religious functions, and the care of souls.'" However, the orator notes, Carlotto received the agreed-upon remuneration. "Let us assume first," says the orator, "that the parties agreed upon what the Archpriest testifies. Carlotto was then due the sacred stipends."

[*Latin ed. p. 486*]

486 EX S. C. CONCILII: "Vos habebitis incertitudines et controversias divisas a metà cum altero cappellano"; sex stipendium libellarum pro missis, quas festis diebus litare t: "Vostri officia erunt missa quotidiana cum elemosina de L. 6 diebus dominicis et festis." Sed cum illi sacrorum merces solvantur, et libellae quadringentae datae sunt, quae stipendia pro toto anno solvenda sunt, et summa completa est (67 X 6 = 403), manifestum est quod debitam mercedem aequatur. Nec hoc sufficit: datum est aliud stipendium festis diebus, de quo in pactis non curabatur (L. 1, 75). Si objiciatur, libellas quadringentas non datae sunt Carlottae ut stipendium pro missis debitum numeraretur, sed datae sunt, praeter stipendium missarum, ut quid esset, mansionario qui curam agentem animarum remuneraret, respondet orator, absurdum esse hanc interpretationem. Nam mansionario, ut curam ageret animarum, ipsum decretum, quo instituta fuit mansionaria, apertissime praeceperat. Praeterea, considerat procurator quantum pauper sit Archipresbyter, ut coadiutori redditum destinare non poterat, nisi mansionariae Faccin, et inde deducit, regulam esse ab hac causa alienam, quam iudex venerabilis in iudicando allegaverit: "contra eum qui legem dicere potuit, interpretatio facienda est" (D. 50-17 de reg. iuris). Nam hac regula, ait orator, iure utimur, ut fraudibus, quae silentio subesse possunt, nullus locus relinquatur. Ad rem, docet Reiff: "Fallit regula quando mens legem obscure ponentis aliunde certe aut verisimilius constat: quantumvis enim in ambiguis contra proferentem interpretatio facienda sit, tamen ubi de illius mente certa et verisimilior habetur notitia, iuxta eam procedendum est" (Reiff, ius can. univ. ad hanc

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regulam, vol. 5 de reg. iuris, cap. 11, de hac regula, n. 7 et 8). Eoque magis, quod cum Simionatus Archipresbyter praeter reditum mansionariae nihil prorsus assignare cogeretur, plus assignans, id donasse censendus esset. At regula, qua ad versalia nituntur, cum in donationes non cadat, donantibus, opponi non potest, "fallit in donationibus quando de iis vere factis non satis constats."

[*Latin ed. p. 487*]

VICENTINA 487, or, although it is indeed established, it remains doubtful whether more or less was given" (ibid. n. 9), the advocate argues. Furthermore, the advocate notes that if the established sum was given not as payment for Masses from the income of the *mansionaria*, but in addition to the income, in order that the one administering souls might be compensated for the care of the *mansionaria* in that way, it is scarcely conceivable that Carlotta would have been silent when she saw that the Mass stipend promised by the parish priest was not being paid. "Your obligations will be the daily Mass, and the alms of 6 lire on Sundays and holidays." If, however, we suppose another scenario, the advocate continues, namely, that nothing was said about the Mass stipend, but that this agreement was made: "You will have 400 lire annually, without a stall in the third pew, without collection," then Carlotta certainly received both abundantly. If it is objected that the Archpriest did not mention either the Mass stipend or the income of the *mansionaria*, and therefore it should be inferred that he promised 400 lire in addition to the income of the *mansionaria*, apart from the Mass stipend, the advocate responds that he has clearly demonstrated that the Archpriest promised these things concerning the income of the *mansionaria*. To excuse the Archpriest from all blame, the advocate notes that he did not act deceitfully when he did not bring up the income of the *mansionaria* in the agreement. Indeed, "When Carlotta arrived, there was no mention of either the collection or the Pontifical decree regarding the reduction of alms, because at that time the endowment in property of the *mansionaria* no longer existed; the certificate was addressed to the *fabbriceria*" (from the judgment of the Vicenza court). However, the advocate proves that the priest knew perfectly well that Carlotta was receiving an allowance from the *mansionaria* Faccin, from the signed receipts of the stipend from Carlotta, in which she stated that she had received 400 lire from the income of the *mansionaria*. And in truth, the advocate observes, at what time did Carlotta learn of the decree by which the *mansionaria* was established?

[*Latin ed. p. 488*]

488 From the records of the Holy General Council, it is not expressly stated that the burdens imposed upon the mansionary were lessened, but it is not difficult to surmise, the advocate states. Firstly, it is clear that Carlotto

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discovered, before the cause was initiated, that the goods of the mansionary had been unjustly seized by the treasury. Indeed, he considered the matter because, while examining the archives of the Curia, he fortuitously found a document. "After some time, he found in the Curia the will of Faccin: the document establishing the mansionary. He understood that it had been unjustly seized and decided to attempt to reclaim it" (as stated in the judgment of the Curia Vic). Secondly, it became clear shortly thereafter, when he was preparing arguments to defend the cause he had initiated. "He brought the claim for reclamation against the Royal Treasury. After new investigations and searches made in the Curia, he found a new document, by which the archpriest, the possessor of the records pertaining to the fabricaria, had obtained from the Holy See permission to increase the alms collected for festive Masses to 6 Lira." However, the cause was initiated before the year 1888, and was concluded in the year 1891. Therefore, it is certain that Carlotto knew of the decree of the year 1888, and of the rescript of the year 1890; and most certainly, he knew of both three years later (1893), shortly before the mansionary was deprived of his position by order of the Bishop. With these facts established, the advocate concludes that the priest, Carlotto, received from the officials who administered the income of the mansionary, for many years, four hundred lira annually, as evidenced by the receipts: "These are 400 Italian lira which I, the undersigned, have received from the Reverend Don Antonio Simionati, as the annual salary earned on September 14, 1890, as mansionary of this parish church. The undersigned declares that he has received from the fabricaria of the Saints Mary and Vital, 34 lira and 10, and this as payment for the month of October 1893, as compensation due as mansionary of the parish of the Saints Mary and Vital... Carlotto, Domenico, mansionary." Therefore, it is clear, the advocate concludes, that Carlotto did not receive four hundred lira annually in addition to the income of the mansionary, but rather, he received it as compensation for his work as mansionary: from the income of the mansionary.

[*Latin ed. p. 489*]

VICENTINA 489. Lastly, it is noted that the judge, while correcting the sentence of the Vicentine Tribunal, stated that the Archpriest Carlotto had promised to pay four hundred florins to the mansion. Indeed, it is clear that, beyond the income from the mansion, Archpriest Carlotto had the right to the mansion from the time he arrived at Monticulum. However, this right was only fully established by the Bishop's decree of October 23, 1888. "Therefore, from that time forward, the Reverend Carlotto was invested with the benefice, along with all its rights and appurtenances, and therefore, from that time forward, he had the right to celebrate the Masses belonging to the mansion and to receive its alms." Since Carlotto had visited Monticulum in June of 1887, and the mansion was granted to him by

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decree in October of 1888, it follows, the patron argues, that from October of 1888, the Archpriest should have paid Carlotto the stipend for the Masses. However, the judge openly violated the rule he had established and did not hesitate to order the Archpriest to pay Carlotto the stipend for the Masses from June of 1887. "Therefore, it is admitted, as it appears from the documents, that from June 23, 1887, to November 18, 1892, the Reverend Carlotto celebrated Masses on feast days for the aforementioned foundation, and having not received the additional amount beyond the alms, he is entitled to receive it. Therefore, the Archpriest, Father Anthony Simionati, is to give to the Reverend Father Domenico Carlotto the additional amount beyond the alms, that is, 4.25 florins for each Mass celebrated on feast days for the Faccin foundation, having received only the alms of 1.75 florins. For this reason, the Reverend Tribunal of Vicenza is requested to examine the statement indicating the number and application of the Masses celebrated by the Reverend Carlotto on feast days from June 23, 1887, to November 18, 1892."

DEFENSE OF THE PRIEST CARLOTTO: Firstly, it does not seem that restitution in full should be granted, nor that this extraordinary remedy should be given to one who could have conveniently used the ordinary remedy, namely, an appeal.

[*Latin ed. p. 490*]

490. FROM THE DECREES OF THE COUNCIL, it is omitted. Nor does age offer an excuse, for this man, though eighty years old, still discharges the office of Archpriest, and if he is still able to diligently strive for the good of others in so important a position, it is not right to assume that he is no longer capable of safeguarding his own rights. Furthermore, he acted not personally, but through a procurator appointed by him, in the court of Venice, and everyone knows that procurators have the power to initiate an appeal, and they ought to propose this in the best interests of their clients, unless expressly prohibited. Thus, Reiffenstuel, *loc. cit.*, p. 131. Finally, the fact that the opponent claimed the remedy of restitution in integrum, and did not obtain it when the time for appeal had already passed, does not entirely excuse the opponent, who ought to know (for no one is permitted to be ignorant of the law) that an appeal can be combined with a petition for restitution in integrum, and this should be done, if the ordinary remedy is available, if the extraordinary remedy is not granted. Pellegrini, *Practices of Vicars*, p. 2, section 2, subsection 1, no. 90. It is clear that the court of Venice rightly and justly rejected the petitioner's request, from the very meager argument that was presented solely to obtain restitution in integrum. For the signed receipts from Carlotto, with a witness attesting that he received a sum of money, as a "mansionario" from the Faccin foundation, prove that he received such income, but they do not prove, nor at least, beyond doubt, that he received it under that title, that is,

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under that legal basis, by which a "mansionario" is entitled to it: and this is the essence of the present controversy; namely, whether, through income received as a "mansionario," all obligation of the Archpriest towards his "mansionario" is extinguished. This is the merit of the question, which can only be properly addressed as the resolution of both the first and second doubts demands.

[*Latin ed. p. 491*]

VICENTINA 491. Indeed, the Archpriest Simionati holds the opinion that the judgment of Vicenza is to be upheld, but, if I am not mistaken, the very context of the judgment itself stands in the way of this desire. For, surely, everyone knows that any judicial sentence consists of two elements: one of fact and law, and the other of the derivation of law from the facts. But in the judgment of Vicenza, two different accounts of the facts are presented; indeed, they differ in detail, connected as they are to the object of the controversy. Lest I seem to be acting presumptuously, I merely recall what I explained at the beginning of the page, namely, that in the context of the judgment, it was previously asserted that no mention was made of an alms of six livres for festive Masses, and then a witness, the Archpriest's nephew, was brought forward who confessed that an alms of six livres had been paid according to an express agreement. Can a graver sin be committed against the very external form of the sentence? What authority can a judicial response claim for itself if it is based on a false or, at the very least, a dubious foundation? The error of fact is all the more serious because judgment was to be rendered against the Archpriest in both hypotheses. For the coadjutor obtained the title of "mansionarius" by virtue of his office. This is what the will of the testator Faccin demands, this is what the Bishop intends, this is what the Archpriest wanted when the priest Carlotto was appointed to this office. I might, at the very most, concede that the title of "mansionarius" was conferred upon the coadjutor not on June 23, 1887, but on October 22, 1888, by solemn letters of institution; but because, according to canon law, such acts consist not of formalities, but of the will and authority of the Superior, and considering the truth of the matter, I believe that the title of "mansionarius" was fully acquired by Carlotto from June 23, 1887. For it is customary for a coadjutor to be chosen by virtue of the established "mansionarius" of Faccin. But he who holds the title of "mansionarius" has the absolute right to know the burdens and rights of the "mansionarius." Therefore, the Archpriest Simionati has yielded to the will of...

[*Latin ed. p. 492*]

492. From the decree of the Sacred Congregation [Concilio], concerning the testator Faccin, when he did not explicitly indicate to the Coadjutor from which rights he derived benefits from the rectory; indeed, he even disregarded the authority of the Sacred Congregation, which, having re-

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duced the obligations of the Mass and increased the alms, intended to improve the condition of the coadjutor's rectory, rather than that of the Archpriest. On the contrary, if the Archpriest said nothing about the duties of the coadjutor, or if he only stated that the Mass, on feast days, received a stipend of six *libellae* and did not indicate that this was derived from the revenues of the rectory, due to the reduced number of Masses, it is undoubtedly to be said that he considered his own benefit, but certainly not that of the Coadjutor. The intention of both the testator and the Sacred Congregation was to provide for the adequate support of the coadjutor, considering the circumstances of the times and the needs of the coadjutors. The decree of the Sacred Congregation stipulated that the obligation of the Mass should no longer be a daily one. It is not permissible to object to the exactions of the tax collectors, since these have harmed the rectory and have attributed certain revenues of the fabric of the Church; for just as no one is permitted to ignore a right established by law, as stated in canon 13 of the sixth book; so too, although it is permissible for priests, among others, to ignore the usurpations of the tax collectors, these do not alter the factual situation, but do not affect the rights. Therefore, the rectory of Faccin has suffered no diminution in its title. Furthermore, from what has been said, it follows that the rights of the coadjutor of the rectory were not preserved from the beginning of the acceptance of the office; but this does not necessarily prove that he is owed compensation in any particular amount. As for the amount of compensation, it does not seem that the judge of Venice has fully addressed the matter; indeed, he does not always adhere consistently to the terms of the case. However, if the Most Reverend Fathers should deem it necessary to recognize that sufficient provision has not been made for the rights of the coadjutor, then the very nature of the coadjutor's office and the celebration of the Masses suggest that compensation can be appropriately provided, not in the manner of a mercenary, but in a moral way.

[*Latin ed. p. 493*]

VICENZA, 495. Finally, it must be kept in mind that the priest Carlotto, in seeking the reimbursement from the Treasury of the expenses for the residence, had deserved well of the Church. With these considerations in mind, the following questions were to be resolved: 1. Is there a place for complete restitution in this case? And to what extent? 2. Is the sentence of the Patriarchal Court of Venice to be confirmed or overturned, with regard to the fourth point of the case? The Sacred Congregation, after deliberation on December 15, 1900, decided to respond: To the first question, the answer will be provided in the second. To the second question; after considering all things, nothing is due to Dominic Carlotto in this case. BERGAMO. CHAPLAINCY. December 15, 1900. By summary petition. SUMMARY OF THE FACTS. The Bergamese Court reported that in that Cathedral there exists a

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residential chaplaincy founded in the year 1467 by the canon Anthony Rota, with the following obligations: "The secular priest, as chaplain, shall be obliged to celebrate seven Masses each week in the chapel of Saint Jerome, Confessor and Doctor, and of the Blessed Catherine, Virgin and Martyr, in the Cathedral Church of Bergamo, unless there is a just impediment, and to attend all hours with the canons in the same Church only on Sundays and holidays, also unless there is a just impediment." "The priest who is chaplain shall be obliged to swear, in writing, that in the aforementioned Church and in the aforementioned chapel of Saint Jerome and the Blessed Catherine, he will celebrate seven Masses each week..."

[*Latin ed. p. 494*]

494 "From the statutes of the Council, it shall be celebrated, and he shall participate in the divine offices, as stated above, unless there is a just impediment." "And all of these things shall be done personally by the aforementioned chaplain of the aforementioned chapel, or by one appointed by him, unless he is reasonably hindered or occupied, and in that case, another shall perform them." The chaplain, having been invested with the office, now fulfills the function of the chancellor and episcopal master of ceremonies, and therefore he ought to assist in many of the functions carried out by the Ordinary within the diocese; in these matters, he cannot be present with the choir more than a few times in the year. But in these cases, according to the aforementioned words, he is considered to be reasonably hindered or occupied; and therefore, he is to be considered present. The chapter of the cathedral presented the following objections: namely, that in the actual foundation, the chaplain is obligated to be present at all hours with the canons in the church, only on Sundays and feast days, unless there is a just impediment; and that the words "unless he is reasonably hindered or occupied" refer only to the obligation of the daily Mass, where the testator speaks of the burden of the Mass. Furthermore, wishing the testator to establish a chaplaincy with the obligation of Mass on feast days, he should have spoken only of a just impediment of the person, and added: "and all of these things shall be done personally." Therefore, the objections raised by the invested chaplain cannot be admitted. In response to these objections, the invested chaplain stated that the words "unless he is reasonably hindered or occupied" refer equally to the obligation of celebrating Mass and the obligation of residence. The founder states: "The chaplain shall be obligated to celebrate seven times in each week, and to attend the divine offices on Sundays and feast days; these obligations are to be fulfilled by him personally, unless there is a just impediment, and unless he is reasonably hindered." Therefore, the question has been raised as to whether the invested chaplain can be excused from the obligation of choral residence

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by a just personal impediment, and by legitimate personal occupations.

[*Latin ed. p. 495*]

bergomel, N. 495. Furthermore, it must be considered whether the office of Chancellor and ceremonial attendant of the Bishop is sufficient grounds for a legitimate dispensation from the choral residence for the days and hours during which the aforementioned duties are performed. A concise summary of the discussion is presented below for the resolution of these questions. Indeed, the entire difficulty lies in this: whether the chaplain instituted in the residential chapel founded by Anthony Negronio, for the Cathedral Church of Bergomen, is legally entitled to hold other offices or duties that are incompatible with the obligations assumed from the Negronio chaplaincy. Church law, in its positive form, expressly establishes the incompatibility of multiple benefices, as ordered by the Council of Trent, Session 7, De Ref., chapter 2, and Session 24, chapter 17; but natural law itself dictates that no one should hold an office that prevents them from fulfilling other obligations, therefore, it is impossible for one to adequately fulfill both, given the obligations undertaken. This precept appears to be implicitly, but sufficiently expressly, contained in the founding documents of the Negronio Chapel; namely, that clause from which the chaplain is not excused from the choral office on feast days unless a just impediment prevents him, nor from celebrating the daily Masses, unless he is reasonably hindered or occupied, and in such cases, he should have them celebrated by another; this clause, I say, expressly indicates that the founder considered impediments that are not perpetual and, by their very nature, permanent, such as those arising from an incompatible office, but only those that happen unexpectedly and are of a temporary nature. Therefore, he stipulated: "and all of these things must be performed PERSONALLY by the aforementioned chaplain." A question very similar to the current controversy was debated in the Sacred Congregation of Clerics in Naples, on April 14, 1725. When the house of the Annunciation in the city of Naples was greatly burdened by many Masses that had not been celebrated in the past and were to be celebrated in the future, and its officials had recourse to the Holy See for a suitable remedy, Clement VIII inquired...

[*Latin ed. p. 496*]

496. Ad satisfacere praedictis oneri, quattuor capellaniae erigendae essent, perpetuae et inamovibiles, cum dote ducatorum sexaginta pro qualibet, quae quattuor presbyteris essent conferendae, qui personaliter deberent residere et quotidie celebrare in altari S. Ioannis Baptistae, ita tamen ut si aliqua die cuiusvis hebdomadae legitime impediti fuissent, facultatem haberent suum munus per alios explendi; secutaque post multam temporis intercapedinem a. 1707 decoctione famigerati Barici memoratae domus SSmae Annuntiationis, habitoque ab administratore

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novo recursu ad Clementem IX pro aliqua provisione capienda super oneribus Missarum, Summus Pontifex demandavit, ut aliae quattuor erigerentur Capellaniae cum eodem proventu pro quolibet Capellano. Cumque pro recta executione eorum quae in Brevibus electionum continebantur, aliqua exorta sint dubia, inter alia quaesitum fuit: "An Capellani possint obtinere beneficia curata vel oeconomicis Ecclesiarum parochialium aut incumbentias excipiendi confessiones Monialium aut alia onera incompatibilia cum celebratione Missarum, eas tamen adimplendo per substitutum?" Et super hoc puncto censebant administratores esse negative respondendum, tum quia iuxta Breve Clementis VIII debent personaliter residere apud Ecclesiam et quotidie Missas, per seipsos, celebrare; in quo rerum themate non videtur quod ab ipsis assumi possint onera quae dictam personalem residentiam et celebrationem Missarum per seipsos impediunt, tum quia si in citato Brevi dementino solummodo Capellanis indulgetur, ut si aliqua die cuiusvis hebdomadae fuerint legitime impediti, munus hoc adimpleant per alios sacerdotes, restrictiva haec excludit: quodcumque aliud voluntarium impedimentum quod sit vel perpetuum vel ad longum tempus. At e contra excipiebatur a Capellanis, affirmative super praedicto primo dubio esss respondendum, et praecipue quia Breve Clementinum non procedit ad privationem Capellaniae in casu non residentiae, in quo rerum statu residentia non est praecisa, sed causativa, et sic minus apta ad inducen-

[*Latin ed. p. 497*]

BERGOMEN. 497: They allege incompatibility; and this all the more strongly, because each chaplaincy yields no more than five ducats per month, and given this financial constraint, residence is deemed necessary; and also because, if a Clementine Brief, in the event of an impediment occurring, permits the fulfillment of Masses by another priest each week, it seems that a judgment must be rendered in the hypothesis in which the impediment extends for a perpetual time, or for a period of time beyond a week. After considering all these points, the Most Reverend Fathers provided the following response to the doubtful question: "Regarding the first point, negatively, that is, concerning incompatibility with the celebration of Masses by themselves." On the contrary, it must be noted that the aforementioned response cannot be insisted upon in this matter, because the incompatibility of offices is to be considered primarily in relation to the revenues with which those offices are endowed. For it would be unreasonable to expect the founder of each office to forbid the official from attending to other offices, even though he does not receive from that office the revenues necessary for the sustenance of life. But from the documents, it is not clear whether the revenues of the chaplaincies in this matter are sufficient; therefore, we have requested information from the Bergomense Curia, so that the Most Reverend Fathers may be

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informed of the amount of revenues received from the endowment of the chaplaincies. Furthermore, even if the revenues of the chaplaincies were deemed sufficient, nevertheless, as has happened on several occasions due to the scarcity of priests, or for other reasons entirely proper to our times, the Sacred Congregation has dispensed from the incompatibility of benefices; therefore, with wisdom and prudence, the Most Reverend Fathers will deliberate whether there is more reason for a dispensation, or for some other provision, in this case. With these considerations, the question was asked: what should be answered regarding the prayers?

RESOLUTION. The Sacred Congregation, after discussion on December 15, 1900, decided to respond: "The reasons presented are not a just impediment." Acts, Vol. XXXIII, page 392.

[*Latin ed. p. 498*]

498 STRASBOURG. DISPENSATION FROM IRREGULARITY. December 15, 1900. By summary petition. COMPENDIUM OF FACTS. Dominicus Meyer, a priest, was afflicted with apoplectic illness and lost the use of the right side of his body. He was received into a public hospital, where, with the assistance of another priest, he requested that he be permitted to celebrate the Holy Mass in a private chapel. – After the customary examination, the Bishop of Strasbourg reported the following to the Holy Congregation: "The examination of the manner in which he can perform the ceremonies yielded the following results": "1. The signs of the cross are only sketched; moreover, the left hand must guide the right hand." "2. He is unable to properly remove the veil from the chalice and to fold it." "3. At the offertory, he is obliged to pour the wine and water with the left hand." "4. He can only use the left hand to raise the holy host and the chalice to the required height at the moment of elevation." "5. He can break the holy host; but the priest who assists him must bring the chalice closer to him, after he has taken the holy host from beneath the paten." "6. After the breaking of the holy host, he is obliged first to deposit the half that he holds with the left hand, then to take the other half with the left hand and place it also on the paten, and finally to take back the first half with the left hand in order to detach a particle over the chalice, and this with the right hand." "7. Before the Communion, he can only grasp both halves of the holy host with the left hand, and that with difficulty." "8. He cannot purify either the paten or the chalice; he cannot place the veil over the chalice."

[*Latin ed. p. 499*]

ARGENTINE!*. 499 « 9. Generally, he pronounces the words well; however, it frequently happens that he completely mutilates a word and is obliged to repeat it. He pronounced the words of consecration distinctly. The difficulty he has in overcoming for pronunciation also obliges him to say aloud all the prayers that must be said in a low voice." "Since there

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is neither irreverence towards the Holy Sacrament to be feared (since the sick person must always be assisted by a priest), nor scandal to the faithful, I humbly beseech Your Holiness to be pleased to dispense the aforementioned priest from this irregularity, so that he may again offer the Holy Sacrifice." *Disceptatio Synoptica.* GRACE SEEMS TO BE DENIED. It is a common principle of canonists that a dispensation from an irregularity should not be granted whenever the ceremonies cannot be performed without irreverence towards the sacred thing and scandal or admiration of the faithful. However, given this, it seems impossible to deny that in the case under consideration, the admiration of the people may be present, if such a priest is admitted to celebrating Mass. Indeed, it is established that such a priest can only use his left hand to perform the sacred ceremonies of Mass, while his right hand can only be used to offer some assistance. Therefore, it does not seem that due reverence, with which the Mass must be celebrated, can be preserved, since the Sacred Host can only be handled by this priest with one hand, and in the breaking of the Host, he necessarily needs the assistance of another priest. Therefore, the case can be made to resemble that which is found in Chapter Presbyterum concerning a sick cleric, namely, of a priest to whom half of the palm of his hand, with two fingers, had been severed, namely, that he cannot celebrate Mass "because it cannot be done either safely because of his weakness, nor without scandal because of the deformity of the member." GRACE SEEMS TO BE TO BE GRANTED. However, when it is a matter of one who is already ordained, and not of one who is to be ordained; and when, without fault...

[*Latin ed. p. 500*]

500 From the decrees of the Holy Council, an irregular minister has arisen; it is then customary for the Holy Congregation to grant a dispensation, as taught by Comen. Irreg. of May 6, 1775, and July 11, 1776. Baionen. of March 20, 1824. Astoricen. Dispensations from irregularity were granted on February 27, 1869, among others, and many others. Specifically, it is reported that a dispensation was granted to a religious, whose hand was afflicted by illness, so that he might celebrate Mass with the assistance of another priest, as recounted by Henriquez, book 14, chapter 8, number 4, letter Q. And in a certain document from Cosenza, dated July 13, 1725, which is more relevant to our case, the matter concerned a priest who had lost the flexibility of his right arm, so that he could neither raise it nor make the sign of the cross, except at a distance of about a palm's length from his forehead, chest, both shoulders, and mouth, nor could he receive the sacred Host and Blood, except with the help of his left hand. Therefore, when it was asked whether a dispensation should be granted to this priest from the irregularity he had contracted, so that he might celebrate Mass, Lambertinus, who at that time held the office of Secretary in the Holy Congregation, in order to open the way for

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this unfortunate priest to celebrate Mass, cited the example of the Brothers of the Order of Preachers, who, according to their liturgy, receive the Eucharist with the left hand, and gave legitimate reasons for this practice. As a result, the power to grant dispensations was left to the judgment of the Archbishop. And in another similar case, in the document from Gorizia, Irreg. of January 17, 1872, a dispensation was granted to the priest John Cerii, who, being afflicted with a stroke, could only perform all the actions of the sacrifice with his left hand; therefore, the Holy Congregation gave a favorable response: "For the sake of granting a dispensation and rehabilitation, at the discretion and conscience of the Archbishop, provided that he celebrates Mass with the assistance of another priest for three years, and as long as his illness does not worsen, amen." Very recently, in a certain document from Ghent, Dispens. from Irreg. of May 27, 1899 (a case entirely similar to our own), the matter concerned a priest who, having suffered a stroke, had his right arm and leg so impaired that he could not perform all the ceremonies of Mass.

[*Latin ed. p. 501*]

ARGENTIN, question 501. And You, Most Reverend Fathers, have judged it fitting to respond: "By the grace, judgment, and conscience of the Bishop, provided that the illness does not worsen, and the celebrant offers the Mass with the assistance of another priest." However, the Bishop affirms that in this case, there is nothing to be feared regarding reverence or irreverence towards the sacred rite; for the celebrant requests to offer the Mass in a private chapel with the assistance of another priest. Therefore, so that sorrow may not be added to sorrow, the unfortunate priest seems most worthy of the benevolence of the Holy Order and the Apostolic See, lest he, deprived of the perpetual nourishment of spiritual consolation, should grieve that he is almost reduced to secular affairs through misfortune. Having considered these matters, the question was raised as to how the petitions should be addressed. RESOLUTION. The Sacred Congregation, after deliberation on December 15, 1900, decided to respond: "By the grace of dispensation, by the judgment and conscience of the Archbishop, provided that the illness does not worsen, and with the assistance of another priest, the following dispensation from choral service is granted." TRIDENTINA DISPENSATION FROM CHORAL SERVICE, January 26, 1901. Through summary petitions. Hieronymus Mayrhofer, a choral chaplain benefiting from the Collegiate Church of Bulsana in the Diocese of Trent, in addition to the duties incumbent upon him in the choir, at the mandate of the Chapter and with a certain sum assigned by the same, amounting to 105 florins, dedicates himself to instructing in sacred catechesis the children of the public elementary school; and, by order of the Bishop, he teaches the elements of religion in the imperial normal institute where teachers are trained and educated. For this, a salary of 500

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florins is assigned to him. With such numerous concerns, Hieronymus petitioned the Bishop. COMPENDIUM OF THE MATTER.

[*Latin ed. p. 502*]

502. By order of the Holy General Council, and at least in part, the Bishop granted a dispensation from the service of the choir; he dispensed with the evening service and the celebration of Mass by turns. It is, however, a singular circumstance in the Collegiate Church of Buls, that the daily distributions are very meager; therefore, those who are improperly absent, not only lose their distributions, but are also penalized. The Collegiate Church petitioned the Metropolitan of Salzburg for a dispensation, and he declared that the general dispensation granted by the Bishop could not be considered valid. The Bishop, however, pointed out that the statutes of that church had always been subject to his authority, but, not wishing to waste time in proving the validity of his decree, he consulted Jerome Mayrhofer to submit a humble petition to the Most Holy Prince for the granting of a dispensation. Therefore, the petition states: "To the Reverend Priest Jerome Mayrhofer, of the diocese of Trent, two duties are especially incumbent, one as a beneficiary, and the other as a catechist." "As long as the aforementioned priest enjoys the benefit, according to the constitutions of the collegiate church of Buls, he is obliged, along with the other members of the Chapter, to recite the canonical hours from Prime to Compline daily in the choir, and to chant Matins with Lauds on certain more solemn feasts, according to the Indult of the Holy Congregation of Council, dated February 13, 1854." "Furthermore, all beneficiaries of the church of Buls, by virtue of the same constitutions, are obliged on Sundays and holidays to observe the schedule of Masses, according to which, for the benefit of the faithful, Mass is celebrated every half hour from half-past four o'clock until eleven o'clock. On weekdays, however, the members of the Chapter are obliged, in turn, to celebrate Mass once a week, at the *octava* hour." The Chapter, as such, which is ordinarily composed of eleven members and the Reverend Monsignor Prefect, by order of the Most Excellent Emperor of Austria, which has been confirmed by the Ordinary of Trent, through one of its members, instructs the boys in

[*Latin ed. p. 503*]

The school of TRIDENTINA, so-called because of its size, is obligated to instruct in the truths of the Catholic Religion. This was established the previous academic year by the aforementioned Hieronymus Mayrhofer, and will continue to be the case as long as the Most Reverend Lord Bishop orders it. "From the same Most Reverend Prelate of TRIDENTINA, the priest named Eugenius Carolus has been assigned the duty of teaching the Catholic Religion in the school for teachers." "Therefore, the priest Hieronymus Mayrhofer, who is a catechist in the school for teachers and in

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the larger school for boys of Bulsani, is obligated to teach the Catholic Religion in nine schools, for two hours each week; thus, he must teach for twenty-eight hours per week, to a total of three hundred and eighty students, divided into five classes in the former and four classes in the latter." "Each day, the catechist is obligated to celebrate Mass at half-past seven for the teachers and students, and on Sundays and holidays, after the Holy Mass, he must deliver a pious sermon to these listeners." "Since Hieronymus Mayrhofer, as a catechist, often finds himself hindered in fulfilling his duties due to his benefice, he humbly requests the following dispensations, as long as the duty of catechist in the two aforementioned schools is assigned to him:" "I. From the obligation of attending the canonical evening prayers, except in cases where, as a teacher and catechist, he is legitimately hindered." "II. From the obligation of observing the hours of Mass and celebrating the Holy Mass at the eighth hour once a week, for the period of ten months, during which he is obligated to celebrate Mass for the boys and students." "III. That no impediment be placed before him if, on one or both occasions, he is legitimately excused from attending the office of the choir for other reasons." "It should be noted that for thirty years prior, two members of the Chapter of Bulsani have always..."

[*Latin ed. p. 504*]

"504. From the Sacred Council, it is decreed that no master or catechist shall be admitted [to the choir], and if anyone who has been admitted fails to fulfill the obligations mentioned above, he shall always be considered legitimately impeded [from participating], yet shall be deprived of the choral distributions; however, he shall always be obligated to pay the dues." "The matters here explained are based on truth, and they more strongly urge the following requests, since the speaker also holds the office of president of the Catholic society of artisans, which has been entrusted to him by the Ordinary." The bishop supports the speaker's request. The chapter was consulted regarding its opinion, and it responded with the following: "Provision has been made for the first part of the requests, since the chapter statutes prescribe: 'This distribution of Masses shall be requested from the Director of the Sacristy in such a way that the approval of the Prefect is always necessary, to whom it is entrusted to relieve, for a time, those who, either due to illness or another legitimate cause, are to be excused from this duty.'" "The cause of the difficulty regarding the evening office is the scholastic work, to which neither the chapter as such, nor its individual members, have any obligation. If this is the case, then the speaker is, according to the statutes, unlawfully absent from the choir. However, any member who is unlawfully absent, according to the practice in force since the restoration of the chapter in the year 1855, does not lose the distributions, but is subject to the dues, because such is the established order, so that their loss would be absurd." "Furthermore, the speaker, as a catechist of

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the higher elementary school, for which school the chapter pays him a fixed remuneration, does not receive any distributions according to the chapter statutes: 'For if... a fixed remuneration has been assigned, he who enjoys it shall, by right, be deprived of the benefit of receiving distributions.'" "Finally, it must be admitted that the difficulty in fulfilling the evening office in the choir depends on the will of the speaker, since he can fulfill this task, to which he is not obligated as a member of the chapter, along with the evening office. For he can either perform the scholastic duties in the morning, to which, at least in part, civil law itself grants the right and obligation, or..."

[*Latin ed. p. 505*]

The [ecclesiastical] tribunal has assigned [him] this task, and he does not lack strength, since the Most Reverend Archbishop of Vienna has ordered that the Cooperator of the city of Vienna, who must also, for a time in the morning, undertake a sufficiently ample and weighty care of souls, should attend to this matter; or, if this is not pleasing, he can devote time from the third hour after midday. Therefore, the Most Reverend Metropolitan judged that, if possible, the scholastic duties should be gathered together by the Orator, along with the obligations of the chapter. This would indeed be desirable, since the condition of the chapter is such that it can scarcely perform its duties with dignity. "On the other hand, the obligation rests with the chapter to provide, with all its strength, that all the statutes accepted under oath are equally observed." The Bishop, referring to the sum of the objections raised by the Orator against the decisions of the Chapter, states: "In truth, the sum of these objections is that the remedies indicated by the Canons are of little or no benefit, because another priest could not suffice to celebrate Mass at fixed hours without great expense; and as for being present in the choir (from which he requested a dispensation), he asserts that it is excessively burdensome and almost impossible for him, even if the hours are changed, because of the large number of readings for the catechists that must be given, and because he is often detained in study for private preparation, to which is added the duty that he performs usefully in caring for and governing the hospice for young artisans, collecting them, educating them, and instructing them in the Christian religion, for which tasks his own strength is scarcely sufficient, and therefore he humbly requests that the dispensation he has requested be granted to him again."

Synopsis of the Discussion. Indeed, as I noted in Bergamo, on December 15th of the past year, the obligations should not diminish the benefits of the benefice because someone assumes burdens that are not compatible with the office of his benefice; and this has been decreed.

[*Latin ed. p. 506*]

506 From the decree of the Holy General Council, and from the Most Rev-

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erend Fathers: It seems that, in this matter, a dispensation should be denied all the more. For, on the one hand, the Canons teach that the service of the choir should not suffer any diminution in its members, since the number of these is already small; on the other hand, they explain that the duties of the orator can be reconciled with those of the choir, provided that the Canon who desires to accumulate offices does not refuse to increase his work and his stipend. Conversely, it is worth noting that the very sad condition of things causes that which is desired by all, namely, an equal distribution of duties among the clergy, to be hindered by the very lack of priests. For indeed, the harvest is plentiful, but the laborers are few. As for the greater good that can be obtained if the law of the chapter is relaxed, the Bishop is a witness who earnestly desires that a dispensation be granted to the Orator, since he will amply compensate for the detriment suffered by the solemnity of the choral service through the profit of souls. Furthermore, the office of preaching and teaching, and even the very elements of the Christian religion, are such that they demand constant study, lest the orator's and teacher's lack of knowledge rather alienate the minds of the listeners than attract them to holy doctrines, especially in this our age, in which all, but especially schoolmasters, more easily despise the elements of religion with a light heart than they seek them out. Moreover, according to the statutes of the sacred canons, this necessity of preparation is appropriately valued: if a Canon, on the day he is absent, without any consideration for the number of Canons and the service of the choir, is granted leave of absence from the choir, he loses his daily distributions. — As is clear from the last paragraph of the petition, namely: "III. That he not be burdened if, on one or the other occasion, for other legitimate reasons, he is absent from the office of the choir," the Orator, being absent from the choir, does not request an indulgence for receiving the daily distributions, and he recalls "that for thirty years past, a member of the Chapter of Bulsana has fulfilled the double office of master and catechist, and if he has not been endowed with the aforementioned obligations, he has always been considered legitimately hindered, yet he has lacked the choral distributions."

[*Latin ed. p. 507*]

TRIDENTINA 507, however, should never have been required to pay for them." The chapter, however, seems to suggest that the loss of distributions does not apply, since it states: "Any member that is absent without legitimate reason does not lose the distributions, but the crutch is affected, because such are the circumstances that their loss would be ridiculous." But the chapter's assertion contradicts the statutes: "For if a remuneration has been assigned to one who benefits from it, he will be justly deprived of the distributions." Indeed, it is clear to no one that the Council of Trent, Session 2, chapter 3, and Session 22, chapter 3, expressly forbade those who are absent without legitimate reason from receiving daily distributions.

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Regarding the obligation of the canons to celebrate Masses on feast days, the chapter does not contradict the dispensation, but rather seems to claim the right to grant it, as the situation requires, noting: "This distribution of Masses for the sacristan will be requested from the Director of the sacristy in such a way that the approval of the Prefect is always necessary, to whom it is entrusted, so that he may, for a time, exempt those whom either illness or ANY LEGITIMATE REASON warrants." With these considerations in mind, the question was raised as to how the prayers should be granted. RESOLUTION. The Sacred Congregation of the Council, after discussing the matter on January 26, 1901, decided to respond: For the granting of the dispensation requested for five years, if the current circumstances persist, at the discretion and conscience of the Bishop. MECHLINIENSIAN IRREGULARITY. December 15, 1900. Through summary prayers. SUMMARY OF THE CASE. The Archbishop of Mechlin, on September 3, 1900, sent these letters to the Most Holy Prince: "Arthur Bamps, 22 years of age, a subject of the Diocese of Mechlin, having already completed his studies in the humanities and philosophy,..."

[*Latin ed. p. 508*]

"508 From the studies of the Council, he ardently desires to progress in theological disciplines and, at the opportune time, to be promoted to the sacred orders." "However, an impediment prevents me from immediately agreeing to his wishes, namely, a physical defect with which he suffers. He limps considerably, so that he cannot walk without a cane. Nevertheless, an experiment has been established, whereby he will be able to celebrate Mass without a support, and to observe all the rites and ceremonies sufficiently, except that he will only be able to bend the right leg up to the ground with great difficulty." "The following reasons move me to supplicate Your Holiness to grant a dispensation in favor of the aforementioned young man, so that he may also be promoted to the sacred order of the priesthood:" "1. That the young man is of the best character and of exceptional piety, for whom serving God in the Sacred ministry is the greatest, indeed the only, good of life." "2. That he possesses an uncommon intellect, having obtained the fourth place among seventy-two competitors in the philosophical studies." "Although he may be unsuitable for the external labors of the sacred ministry, he will be able to prove himself useful to the Church through learned sciences, writing, and speech." "3. He has most honorable parents, and abundant in temporal possessions, who 'promise to provide for his necessary expenses for a decent livelihood, now and in the future, relieving the Ordinary of any burden whatsoever.'"

Synopsis According to the Sacred Canons, those who are irregular due to a bodily defect are all those who cannot perform the ministry of the altar due to some impotence, or due to some deformity by which they cannot exercise the Sacred Orders without scandal, or without the admiration of

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the people. Cap. 2, 3, 4, De Cler. aegrot. According to the common opinion of Doctors, there is a serious deformity, and therefore irregularity, "if he is so lame, as the Glossa says, that he cannot be sustained at the Altar without a cane," ad Decr. Grat. Dist. 55.

[*Latin ed. p. 509*]

MECHLINIENSI 509 cap. X. "Furthermore, he who does not require a cane is by no means irregular, just as neither is he who has twisted legs." Thus writes St. Alphonsus, VII, 407, citing several authors. Indeed, in this case, the sole defect is a limp, so that the priest cannot walk without a cane; nevertheless, he can celebrate Mass and observe all the rites and ceremonies without support. The words of the Eminent Archbishop are: "He limps to such a degree that he cannot walk without a cane. However, it has been established through examination that he will be able to celebrate Mass without support, so that he can observe all the rites and ceremonies sufficiently, except that he will be able to bend his right knee only to the middle, not all the way to the ground." Indeed, no sensible person would say that a young man of the best character, the best piety, and of uncommon intelligence, as is stated in the letter of the Eminent Archbishop, should arouse the admiration of the people simply because he needs a cane to walk. Moreover, to approach the altar, even after setting aside the cane, this can be done without any inconvenience; for it often happens that, for the sake of convenience alone, priests celebrate in the altar immediately adjacent to the sacristy, or in another place where they can put on the sacred vestments. And indeed, the recent examples of the Orator are worthy of note, in which dispensations have been granted in cases of defects of a certain magnitude, in Cathacen. On December 17, 1859, a dispensation was granted to a barefooted priest, who, as is evident from the summary, was unable to kneel at the innermost part of the altar, unless he placed his hand on the shoulder of an assistant. And in Asculana, on February 20, 1808, a dispensation was granted to the cleric Salustri, who could barely indicate a genuflection with his left knee, and could not bend both knees at the same time without the help of another. The matter concerned a cleric being promoted. In Comaclen, on February 27, 1864, a rescript of dispensation was granted to a certain Fogli, who, as is stated in the document, "suffers from a complete ankylosis in his right knee, and cannot bend it all the way to the ground, but only to the middle, so that he can perform a genuflection comfortably." The matter concerned a cleric who had only recently entered the two lower orders. Furthermore, in Bergomen.

[*Latin ed. p. 510*]

S10 FROM THE HOLY GENERAL COUNCIL, June 13, 1868, a dispensation was granted to Dominic Colleoni, who had his left foot amputated due to the explosion of a fiery projectile. In Milan, on April 14, 1894, grace was

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granted to the Cleric Caietano Caroveci, to whom the left leg had been amputated due to a serious illness. Finally, in this case, it seems that the rigor must be tempered by the authority of His Eminence Cardinal Goossens, Archbishop of Mechlin, who not only requests the grace of dispensation for the aforementioned person, but also demonstrates it to be reasonable. "I implore Your Holiness to grant the grace of dispensation in favor of the aforementioned young man, (thus His Eminence Goossens), so that he may also be promoted to the sacred order of the priesthood, for the following reasons: 1. That the young man is of the best character and of exceptional piety, for whom serving God in the sacred ministry is the greatest, indeed the only, good of life. 2. That he possesses an uncommon intellect, having obtained the fourth place among seventy-two competitors in the philosophical studies. Although not suited for the external labors of the sacred ministry, he will be able to prove himself useful to the Church through learned sciences, writing, and speech. 3. He has most honorable parents and abundant resources, who promise to provide for his son all that is necessary for a decent life, both now and in the future, relieving the Ordinary of any burden." Considering these matters, it was inquired how the prayers should be addressed. RESOLUTION. The Holy Congregation, having been informed, on December 1, 1900, decided to respond: "Regarding the grace of dispensation, it is left to the judgment and conscience of the Archbishop, with the understanding that he will communicate with the Most Holy."

[*Latin ed. p. 511*]

511. AUTHENTIC DECLARATION FROM THE SACRED CONGREGATION FOR ECCLESIASTICAL AFFAIRS OF EXTRAORDINARY NATURE concerning the Indult of July 6, 1899 (i), regarding fasting and abstinence for Latin America. From an audience granted on March 8, 1901. Certain proposals having been made by some prelates of Latin America, raising doubts concerning the validity and manner of execution of the Indult of July 6, 1899, His Holiness, after mature deliberation and taking into account the opinion of certain Cardinals of the Holy Roman Church, and with the understanding of the undersigned Secretary of the aforementioned Sacred Congregation for Ecclesiastical Affairs of Extraordinary Nature, has judged it fitting to declare and decree the following:

I. The words "faithful who shall have requested it" signify that the ecclesiastical law of fasting and abstinence has not been entirely abolished, but rather has been mitigated for each individual petitioner, as is also evident from the words of the Indult: "observing the ecclesiastical law of fasting and abstinence"; therefore, it is not possible to grant a dispensation from the obligation of requesting the Indult to the faithful.

II. A special grace is granted, namely, that a request for the Indult made by the father or mother of a family, or by another head or administrator of

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a family, whether natural or moral (such as a college, boarding school, and similar institutions), is sufficient, provided that it concerns living persons residing under the same roof or those who partake of meals together. And both the request and the granting of the Indult, whether made orally or in writing, shall be considered valid; nor shall any special summary or other document be required to prove that a dispensation has been obtained, nor the names of those who have been dispensed.

III. By the Indult of July 6, 1899, no change whatsoever has been made concerning the validity, use, or manner of execution of the Indults granted to individual ecclesiastical provinces or dioceses, and these Indults are to be understood only in that sense; therefore, with regard to the Bulla Cruciatae, where it is applicable, the words of the aforementioned Indult should be observed: "In each region, the conditions regarding the recitation of prayers and the offering of alms and their distribution, which have hitherto been customary in the granting of pontifical Indults, shall be observed." Therefore, the Indult of July 6, 1899, apart from the request to be made by individual faithful or families as mentioned above, carries no obligation of almsgiving or pious works, but is to be granted entirely freely.

IV. Since the Indult of July 6, 1899 is a true extension of the Indults currently in force and established for certain periods in individual ecclesiastical provinces or dioceses, although limited to individual faithful or to individual families requesting it, (1) you have this Indult in Vol. XXXI, 756.

[*Latin ed. p. 512*]

512 FROM the document *S. C. NEG. ECCL. EXTRAORD. PRAEPOSITA* cited above, it does not absorb or suppress, but rather presupposes, indeed requires, the granting and validity of the same indulgences, and therefore the observance of the conditions annexed to said indulgences. Therefore, the annual publication of indulgences, hitherto, according to the clauses thereof, has customarily been done, and must not be omitted in any way. To avoid all confusion, the indulgence of July 6, 1899, will not be promulgated as part of the annual edict concerning fasting and abstinence, but at the end, as an appendix to the same edict, under the title: "Extension of the preceding indulgences for individual faithful or families who request it."

V. Although Ordinaries, in granting the indulgence of July 6, 1899, cannot impose any tax or alms, nor any burden on the faithful, and delegates cannot ask for or accept anything on the occasion of dispensations granted by virtue of the same indulgence; nevertheless, in ecclesiastical provinces where, in the promulgation and use of indulgences, no alms have customarily been imposed, it will be permissible for Ordinaries, if they deem it expedient, to exhort the faithful, as part of the customary edict (excluding any explicit command), to contribute, according to their ability, with monetary alms for the expenses of divine worship and Christian beneficence;

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for which purpose, a special collection box may be placed in each parish church, bearing the inscription: "Voluntary alms of the Lenten indulgence," or a public collection may be held in the churches on designated days.

VI. On days of fasting, by virtue of the indulgence of July 6, 1899, for those faithful or families who request it, it is not permitted to mix meat with fish. And it is not expedient to grant the faculty of dispensing from the law of abstinence on days of fasting and abstinence.

VII. Religious of both sexes, not bound by a special vow, although they are of the Order of Minor Friars, may, with the consent of their ecclesiastical Superiors, make use of the indulgence of July 6, 1899, even with regard to the fasts and abstinences prescribed in their own rule or statutes. However, Regular Superiors, especially Provincials and quasi-Provincials, are to be encouraged to take care to abstain from the use of the same indulgence within the cloister, as far as possible; and those subject to them should follow the judgment of their Superiors.

Furthermore, the Most Holy Lord has deigned to extend to Latin America the privilege granted to Spain by Pope Pius IX, of blessed memory, on November 9, 1870, by virtue of which, when the feast of the Immaculate Conception of the Blessed Virgin Mary falls on a day of fasting, it may be transferred to the fifth day preceding.

And concerning all of the above, the Most Holy Pope Leo XIII, by divine Providence, ordered this decree to be issued and recorded in the acts of this Sacred Congregation. Contrary to all that may be.

Given at Rome, from the Secretariat of the same Sacred Congregation, on the day, month, and year mentioned above.

FELIX CAVAGNIS, Secretary.

[*Latin ed. p. 513*]

513 FROM THE CONSISTORIAL ACTS, FROM THE CONSISTORY HELD ON APRIL 16, 1901. ADDRESS: Venerable Brothers. It is fitting, as is our custom, to share with you both joyful and sorrowful matters, and we will not conceal today those things which most grieve us at this time. We are indeed greatly concerned by that harsh and troublesome situation which surrounds the Catholic name, not only failing to abate, but growing worse day by day; indeed, it spreads from one place to another in Europe, like a contagion. For many, separated by distances of place, are united by the similarity of their designs, openly descending upon Ostiglia, and rejecting, with as much ingratitude as arrogance, those benefits which Jesus Christ has bestowed upon the human race. For this reason, and with this intention, a war has recently been brought upon the religious orders in a neighboring nation, a war to which they are gradually succumbing. Neither justice, nor equity, nor the outstanding praise of their merits have been sufficient to prevent this disaster. Moreover, it has been decreed

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that even the youth should no longer be allowed to be educated by them, even though they have produced so many outstanding men for the state for so long a time; and while freedom is liberally granted to each to live according to his own judgment, it is taken away or threatened for those to whom the law prescribes, without violating anything, to live according to divinely ordained counsels. — It is hardly necessary to recall the bitter and harsh domestic difficulties. To this condition of the Roman Pontiff, in which nothing is more unjust and more burdensome, other injuries, which have already diminished the Church's resources and afflicted her freedom, seem about to add another destructive element, from which two things would primarily result: the sanctity of Christians would be more openly profaned, and the foundations of domestic society would be torn asunder. Thus, the trust given for the observance of religion and for the protection of public morals has been undermined. — And in other nations, as we noted at the beginning, this is also evident, namely, that the decrees are hostile, Acts, Vol. XXXIII, page CCCXCIII.

[*Latin ed. p. 514*]

514 FROM THE CONSISTORY ACTS, the Christian institutions are vehemently attacked: and for the sake of this cause, a most bitter agreement is made between them. There are many things that have been widely observed to occur: namely, a roused multitude, violent shouts and joyful clamor in public, writings that incite popular passions, and injuries openly inflicted upon persons and things of importance. These are the signs of future events, and it is not far from the truth that calamitous times will bring even more calamitous consequences. The Church, whatever labors and struggles the day may bring, trusting in God, fearing nothing, will receive and endure. We must fear the empires which, in order to advance, do not see [the truth]: and we must fear the civil union of men, which, indeed, is all the more likely to fall into greater dangers, the further it is removed from Jesus Christ, the Redeemer. May the God who governs and sustains the nations look upon them, and may He, through the light of His counsel, cause them to maturely understand and hasten to abandon their evil ways.

For the splendid Order of your Lordships, venerable brothers, as the circumstances require, we have designated twelve outstanding men, whom we would today adorn with the Roman honor of the purple. Not all of them have labored in the same field; but each has exercised virtue, whether of spirit or of intellect, so singularly in his own office, that they have deservedly earned great merit for the Church and for the Apostolic See. They are: Alexander Sanminiatelli Zabarella, Patriarch of Constantinople; Francis Della Volpe, Prefect of the Papal Household; whom, in the Consistory held on the nineteenth day of the month of June in the year one thousand eight hundred and ninety-nine, the Most Holy Roman Church made Cardi-

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nals, the former from the Order of Priests, the other from the Order of Deacons, and whom we have reserved in our hearts, and today we make public: Donatus Maria Dell'Olio, Archbishop of Benevento; Sebastian Martinelli, Augustinian Religious, titular Archbishop of Ephesus, Apostolic Delegate to the United States of America; Casimir Gennari, titular Archbishop of Naupactus, Assessor of the Holy Office; Leo De Skrbenski, Archbishop of Prague.

[*Latin ed. p. 515*]

FROM THE CONSISTORY ACTS 515: Julius Boschi, Archbishop of Ferrara; Augustine Riboldi, Bishop of Pavia; John Kniaz De Kozielsko Puzyna, Bishop of Cracow; Bartholomew Bacilieri, Bishop of Verona; Aloysius Tripepi, one engaged in Our public affairs; Felix Cavagnis, assistant to Our Sacred Council, entrusted with extraordinary affairs. What do you think? Therefore, with the authority of Almighty God, of the holy Apostles Peter and Paul, and Our own, We create and publicly proclaim the following as Cardinals of the Holy Roman Church, from the Order of Presbyters: Donatus Maria Dell'Olio; Sebastian Martinelli; Casimir Gennari; Leon De Skrbensky; Julius Boschi; Augustine Riboldi; John Kniaz de Kozielsko Puzyna; Bartholomew Bacilieri; and from the Order of Deacons: Aloysius Tripepi; Felix Cavagnis, with the dispensations, derogations, and clauses necessary and opportune. In the name of the Father, and of the Son, and of the Holy Spirit. Amen. After having delivered the aforementioned address, the Most Holy Father proposed the following churches: The titular patriarchal church of Constantinople, vacant through the assignment of the title of the Saints Marcellinus and Peter, to the Most Reverend and Illustrious Alexander, Cardinal of the Holy Roman Church, Sanminiatelli Zabarella, with the favor of the Reverend Father Doctor Charles Nocella, Patriarch of Antioch of the Latin Rite. The titular patriarchal church of Antioch of the Latin Rite, vacant through the promotion of the Reverend Father Doctor Charles Nocella to the patriarchal church of Constantinople, with the favor of the Reverend Father Doctor Lawrence Passerini, titular Archbishop of Ptolemais.

[*Latin ed. p. 516*]

516 FROM THE CONSISTORY ACTS: The Cathedral Church of Passau is vacant, due to the death of the Right Reverend Michael of Rampf, the last Bishop of that See, who died outside the Roman Curia; with the favor of the Reverend Father Francis Anthony Henle, a priest of the Augsburg diocese, for the nomination, by virtue of an Apostolic Indult, of the Most Serene Prince Luitpold, Regent of the Kingdom of Bavaria. The Cathedral Church of Memmingen is vacant, due to the death of the Right Reverend Francis Narcissus Baptifolier, the last Bishop of that See, who died outside the Roman Curia; with the favor of the Reverend Father Louis Henry Bouquet,

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a priest of the Paris diocese, for the nomination by the most illustrious man, Emile Loubet, President of the French Republic. The Metropolitan Church of Zaragoza is vacant, due to the death of the Right Reverend Vincent Alda and Sancho, the last Archbishop of that See, who died outside the Roman Curia; with the favor of the Eminent and Reverend Lord Anthony Mary, of the title of Saint Augustine, a priest Cardinal of the Holy Roman Church, Bishop of Cascais and Azara, Archbishop of Valladolid, for the presentation of the Most Serene Queen of the Catholics, Regent. The Cathedral Church of Imola is vacant, due to the death of the Right Reverend Aloysius Tesorieri, the last Bishop of that See, who died outside the Roman Curia; with the favor of the Reverend Father Francis Baldassari, Bishop of Saint Angel in Vado and Urbano. The Cathedral Churches of Urbino and Saint Angel in Vado, canonically united together, are vacant, due to the translation of the Reverend Father Francis Baldassari to the Cathedral See of Imola, with the favor of the Reverend Father Anthony Valbonesi, titular Bishop of Argea. The Metropolitan Church of Valladolid is vacant, due to the translation of the Eminent and Reverend Lord Anthony Mary, a priest Cardinal of the Holy Roman Church, of the title of Cascais and Azara, to the Metropolitan See of Zaragoza, with the favor of the Reverend Father Joseph Mary Cos and Macho, Bishops of Madrid and Alcalá de Henares. The Cathedral Church of Urgel is vacant, due to the translation of the Eminent and Reverend Lord Salvador, a priest Cardinal of the Holy Roman Church, of the title of Saints Quiricus and Julitta, to the Cathedral See of Barcelona, with the favor of the Reverend Father Raymond Riu and Cabanas, titular Bishop of Tamassia. The Cathedral Church of Barcelona is vacant, due to the death of the Right Reverend Joseph Morgades and Gili, the last Bishop of that See, who died outside the Roman Curia; with the favor of the Eminent and Reverend Lord Salvador, a priest Cardinal of the Holy Roman Church, of the title of Cascais and Azara, Bishop of Urgel. The titular Episcopal Church of Ortosien, under the Archbishop of Tyre, is vacant, due to the death of the Right Reverend Gregory Grassi, the last Bishop of that See, who died outside the Roman Curia; with the favor of the Reverend Father Godfrey Marschall, a priest of the Vienna archdiocese. He was also appointed as an Auxiliary to the Eminent and Reverend Lord Anthony Joseph, a priest Cardinal of the Holy Roman Church, of the title of Saint Mary of the Angels in the Baths, Archbishop of Vienna, to perform pontifical and other pastoral duties, with his consent and willingness, for the benefit and fruitfulness of the faithful in that city and archdiocese. The Metropolitan Church of Mohilev is vacant, due to the death of the Right Reverend Simon Martin Kozlowski, the last Archbishop of that See, who died outside the Roman Curia; with the favor of the Reverend Father Boleslaus Jerome Klopotowski, Bishop of Luck and Zytomyr. The Cathedral Church of Tarnów is vacant, due to the death of the Right Reverend Ignatius Lobos, the last Bishop of that See, who died outside the Roman

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Curia; with the favor of the Reverend Father Leo Walega, a priest of the Premisl diocese. The Cathedral Church of Iscland is vacant, due to the translation of the Reverend Father Joseph.

[*Latin ed. p. 517*]

FROM THE CONSISTORY ACTS:

To the titular episcopal church of Cydon, with the favor of the Reverend Father Mary Palladino, a priest of Naples, the titular archiepiscopal church of Attalia is vacant, due to the death of the Most Reverend John Kupelian, the last archbishop of that see, who died outside the Roman Curia, with the favor of the Reverend Father Francis Albini Simon, now Bishop of Plock. The metropolitan church of Ravenna is vacant, due to the death of the Most Reverend Sebastian, Cardinal-Priest of Galeati, the last archbishop of that see, who died outside the Roman Curia, with the favor of the Reverend Father Augustine Riboldi, Bishop of Pavia. The cathedral church of Plock is certainly vacant, with the favor of the Reverend Father George Joseph Elisae and his companions Szembek, a priest of the diocese of Tiraspol. The cathedral church of Olinda is vacant, due to the death of the Most Reverend Emmanuel dos Santos Pereira, the last bishop of that see, who died outside the Roman Curia, with the favor of the Reverend Father Aloysius Raymond da Silva Britto, a priest of the diocese of Saint Louis of Maragnano. The archiepiscopal church of Teatin, together with the annexed administration of the church of Vasta, is vacant, due to the death of the Most Reverend Roch Cocchia, the last archbishop of that see, who died outside the Roman Curia, with the favor of the Reverend Father January Costagliola, and the Congregation of Missions, a priest of Naples. The metropolitan church of Aquen, to which the titular archiepiscopal sees of Arles and Embrun are perpetually united, is vacant, due to the death of the Most Reverend Francis Xavier Gouthe-Soulard, the last archpriest of that see, who died outside the Roman Curia, with the favor of the Reverend Father Francis Joseph Bonnefoy, Bishop of La Rochelle (-Saintes). The church of Huaraz in the Republic of Peru, raised to the status of a cathedral church by Apostolic Letters dated May 8, 1899, and vacant since its original erection, with the favor of the Reverend Father Ezekiel Francis Soto, and the Congregation of the Sacred Hearts of Jesus and Mary, a priest of Lima. The titular episcopal church of Cydon is vacant, due to the death of the Most Reverend Theophilus Massucci, the last bishop of that see, who died outside the Roman Curia, with the favor of the Reverend Father Joseph Candido, Bishop of Isclà. The titular episcopal church of Epiphania, under the archiepiscopal see of Anazarbus, is vacant, due to the translation of the Reverend Father Sebastian Joseph Pereira to the Cathedral See of Daman, with the favor of the Reverend Father Raphael Fernandez Concha, a priest of Saint James of Chile. The cathedral church of Aquen in the Piedmontese province

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is vacant, due to the promotion of the Reverend Father Peter Balestra to the metropolitan church of Calaritan, with the favor of the Reverend Father Dismas Marchese, a priest of the archdiocese of Genoa. The titular archiepiscopal church of Damascus is vacant, due to the translation of the Reverend Father John Joseph Keane to the metropolitan see of Dubuque, with the favor of the Reverend Father Dionysius of Saint Teresa, formerly Alphonse Steyaert, of the Carmelite Order, a priest of Ghent. The titular archiepiscopal church of Claudiopolitan is certainly vacant, with the favor of the Reverend Father John Baptist Bertagna, the titular Bishop of Capharnaum. The cathedral churches of Ascoli and Cefalù, perpetually and canonically united, are vacant, due to the death of the Most Reverend Dominic Cocchia, the last bishop of those sees, who died outside the Roman Curia, with the favor of the Reverend Father Angel Struffolini, and the Congregation of Secular Priests for Christian Doctrine, a priest of the diocese of Nolana. The titular archiepiscopal church of Tomitan is vacant, due to the death of the

[*Latin ed. p. 518*]

518. By exact Consistorial decrees: The See of Gadara, vacant since the death of its last Archbishop, Most Reverend John Baptist Salpointe, is now held by the Reverend Father Nicholas Joseph Camilli, of the Order of Friars Minor Conventual, as its titular Bishop. The Cathedral Church of Saint Louis in Maragnano, in Brazil, is vacant, due to the translation of the Reverend Father Anthony Candido de Alvarenga to the Cathedral See of Saint Paul in Brazil, favored by the Reverend Father Anthony Xystus Albano, a priest of the diocese of Fortaleza. The titular Archiepiscopal See of Dardinen is vacant, due to the death of the Most Reverend Joseph Pereira de Silva Barros, its last Archbishop, favored by the Reverend Father Joseph Weber, as its titular Bishop of Temniten. The Cathedral Churches of Luceoria and Zytomyr are perpetually and canonically united, due to the promotion of the Reverend Father Boleslaus Jerome Klopotowski to the Metropolitan See of Mogilev, favored by the Reverend Father Charles Anthony Niedzialkowski, as its titular Bishop of Samos and Suffragan of Mogilev. The titular Episcopal See of Sinop, under the Archbishop of Amasen, is vacant, due to the death of the Most Reverend Augustine Marchai, its last Bishop, favored by the Reverend Father Francis Certo, a priest of the archdiocese of Messina. The titular Episcopal See of Agathopolis, under the Archbishop of Adrianople, is vacant, due to the death of the Most Reverend Francis Adolph Namszanowski, its last Bishop, favored by the Reverend Father Balthasar Kaltner, a priest of the archdiocese of Salzburg. The Cathedral Church of Pqpien is vacant, due to the promotion of His Eminence, the Most Reverend Cardinal Riboldi, a priest, to the Metropolitan See of Ravenna, favored by the Reverend Father Francis Ciceri, a priest of the archdiocese of Milan.

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The titular Episcopal See of Mallen, under the Archbishop of Tarsus, is vacant, due to the death of the Most Reverend Hermann Gleich, its last Bishop, favored by the Reverend Father Charles Joseph Fischer, a priest of the diocese of Przemyśl. The titular Archiepiscopal See of Pessinuntin is certainly vacant, favored by the Reverend Father Vincent Di Giovanni, as its titular Bishop of Theodosiopolis. The Cathedral Church of Panamá, in the Republic of Colombia, is vacant, due to the death of the Most Reverend Joseph Alexander Peralta, its last Bishop, favored by the Reverend Father Xavier Junguito, of the Society of Jesus, a priest of Bogotά. The titular Archiepiscopal See of Marcianopolitan is vacant, due to the death of the Most Reverend Macarius Sorin, its last Archbishop, favored by the Reverend Father Paul Sellinosi, as its titular Bishop of Gaza. The Cathedral Church of Yirdunen is vacant, due to the voluntary and welcome resignation of the Most Reverend Peter John Pagis, which was carried out and accepted by the aforementioned HOLY SEE, favored by the Reverend Father Louis Ernest Dubois, a priest of the diocese of Le Mans. The Cathedral Church of Rupellen is vacant, due to the promotion of the Reverend Father Joseph Edwin Bonnefoy to the Metropolitan See of Aix, favored by the Reverend Father Aemilius Paul Le Camus, a priest of the diocese of Carcassonne. The Cathedral Church of Massilien is vacant, due to the death of the Most Reverend John Louis Robert, its last Bishop, favored by the Reverend Father Paulinus Peter Andrieu, a priest of the archdiocese of Toulouse.

[*Latin ed. p. 519*]

FROM THE CONSISTORY ACTS 519: The Cathedral Church of Guadalupe, or Basse-Terre, is vacant, due to the death of the Most Reverend Peter Mary Avon, the last Bishop of that diocese, who died outside the Roman Curia, with the favor of the Reverend Emmanuel Francis Canappe, a priest of the diocese of Amiens. The Cathedral Church of Engolismen is vacant, due to the death of the Most Reverend John Louis Mando, the last Bishop of that diocese, who died outside the Roman Curia, with the favor of the Reverend Francis Ernest Ricard, a priest of the diocese of Rodez et Vabres. The Cathedral Church of Massilien is vacant, due to the death of the Most Reverend John Louis Robert, the last Bishop of that diocese, who died outside the Roman Curia, with the favor of the Reverend Paulinus Peter Andrieu, a priest of the archdiocese of Toulouse. The Cathedral Church of Segobien is vacant, due to the death of the Most Reverend Joseph Raymond Quesada and Gascon, the last Bishop of that diocese, who died outside the Roman Curia, with the favor of the Reverend Joseph Cadena and Eleta, a priest of the diocese of Madrid. The Cathedral Church of Tarantasien is vacant, due to the death of the Most Reverend Peter Emmanuel Bouvier, the last Bishop of that diocese, who died outside the Roman Curia, with the favor of the Reverend Lucian Leo

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Lacroix, a priest of the diocese of Cadurcensis.

FROM THE HOLY CONGREGATION OF THE COUNCIL OF COLOGNE: DECLARATION OF MARRIAGES. Dated February 23, 1901. By summary petition.

SUMMARY OF FACTS: On October 3, 1899, while the Church of Cologne was without a pastor, the Vicar Capitular submitted a petition to the Holy Congregation, requesting that permission be granted, in the very extensive and populous parishes of that Archdiocese where filial churches had been established, for the celebration of marriages by the deacons there, exercising the delegated authority, but only in those same filial churches, and not in the parish church itself. This petition was reiterated on December 19, 1900, by the new Archbishop of Cologne, who earnestly implores that the dispensation requested by the Vicar Capitular be granted, benignly and as soon as possible.

[*Latin ed. p. 520*]

520 FROM THE DISPUTATION OF THE HOLY GENERAL COUNCIL, OPINION OF A CONSULTOR. 1. Synopsis. The Ordinary of Coloniensis states: "In the Archdiocesis of Coloniensis, there exist many parishes which are so extensive and populous that they cannot properly be administered by a single pastor. In such cases, a division should indeed be made, and new parishes ought to be established. But since, due to a lack of endowments, truly named parishes cannot immediately be established, it is most advisable to designate precise and clearly defined districts, which, in future times, when all that is required by law for establishing true parishes has been sufficiently provided, will be raised to the status of parishes, and to which particular vicars are appointed, who will exercise pastoral care there and also assist in the celebration of marriages. Proclamations of marriages are made both in the parochial registers and in the filial churches, which already function almost as parochial churches. However, the proclamations made in the parochial registers are truly useless, because the betrothed are not known there. It also causes boredom for the faithful to hear fifty or eighty proclamations of betrothed couples in the same sacred place, most of whom they do not know. The intention of the law is truly and sufficiently fulfilled by the proclamations made in the filial churches. Therefore, I earnestly implore Your Holiness to graciously deign to declare that, in such cases, proclamations of marriages in the parochial registers are no longer necessary, but that proclamations in the filial churches, which function almost as parochial churches, are sufficient." 2. After the Council of Lateran IV (in the year 1215), according to the custom, especially of the Gallican Church (cf. part. decis. cap. 27. X. De sponsal. IV. 1.; Benedict XIV,

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Constitution "Paucis," March 19, 1758), it generally prescribed,

[*Latin ed. p. 521*]

COLONIEN. 521 "that when marriages are to be contracted, they should be publicly announced in the churches by priests" (chap. 3. X., De cianci. IV. 3), soon after, ancient writers, concerning that single proclamation prescribed by the Council of Lateran, IV, diverged into various opinions. And Innocent IV, as a private doctor in his commentary on the cited chapter 3, considered that announcements should be made in all the churches of the place where the contracting parties reside, or at least in several and so many, that it may truly reach the knowledge of all. But others, for example, Abbot Alex, de Nevo, Paludanus, were of the opinion that the proclamations should be made in one parish, if the contracting parties and their relatives reside there; but if they have resided in different parishes, then the marriage announcements should also be made in those different parishes. Finally, others, appealing to custom, for example, Hostiensis, John Andreae, Ancharanus, considered it sufficient that the proclamations be made in one church. Cf. Sánchez, De s. matrim., sacram. 1. III. disp. 6. n. 1, sq. 3. Therefore, what is surprising, if the controversies have not ceased, after the Council of Trent, Session XXIV, chapter 1, De ref. matr., adhering to the vestiges of the Council of Lateran, with broader and more accurate words, prescribed "that in the future, before a marriage is contracted, it should be publicly announced three times by the parish priest of the contracting parties, on three consecutive festive days, in the church, during the solemnities of the Mass, among those who are to be married." 4. Lest the discussion be extended to too many questions, it seems that the matter should be restricted to two parts of the text of Trent, namely: 1) "by the parish priest of the contracting parties"; 2) "in the church, during the solemnities of the Mass." Indeed, from these two parts, the solution to the single doubt proposed in the petition seems to depend, and therefore, one should not digress to others, which are not called into question. 5. Since the Council of Trent requires that the publications be made by the parish priest of the contracting parties, certainly it is not sufficient, if they are made only by the parish priest of the place of origin, whose parish...

[*Latin ed. p. 522*]

522. The parties contracting marriage have long abandoned the stipulations of the Council of Trent. Indeed, unless we are speaking of those who are itinerant, a parish priest is considered the proper priest only for that person who has a true domicile or quasi-domicile within his parish; the proper priest for an itinerant person is that priest in whose parish he actually resides or in whose parish the marriage is contracted. Consequently, according to the law of Trent, for those who are not itinerant, announcements must be made by the parish priest of the domicile or quasi-domicile of the

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contracting parties; but for those who are itinerant, by the parish priest of the place in which they actually reside or in which the marriage is contracted, subject to any special statutes or mandates by which the Bishops, in granting permission for the preliminary steps of the decree of the Council of Trent, Session XXIV, chapter 7, concerning the reform of marriage, have deemed it necessary to strengthen the rigor of the common law and to require other announcements. Cf. Gasparri, *De Matrimonio*, n. 162. 6. From the general norm established in the Council of Trent, conclusions regarding the law have already been drawn, by logical consequence, by learned men, by the practice now commonly accepted, and by particular statutes and customs that existed before the Council of Trent, and finally, by particular declarations of the Sacred Congregation. I. Therefore, if both contracting parties have (and possess) a true domicile or quasi-domicile only in one parish, the marriage announcements must be made only in that parish. Cf. also the Instruction of the Sacred Congregation for the Oriental Churches, August 29, 1890: "Announcements must be made in the place of domicile or quasi-domicile." II. If, before the marriage, one of the contracting parties has a true domicile or quasi-domicile in one parish, and the other party has the same true domicile or quasi-domicile in another parish, announcements must be made in both parishes. For this manifestly follows from the words of the Council of Trent concerning the "proper priest of the contracting parties," which in the case presented is twofold, since each party has a distinct proper priest. Nor are announcements made in one parish sufficient, just as it is not sufficient to celebrate the marriage before one of the two proper priests. For it is quite obvious.

[*Latin ed. p. 523*]

COLONIEN. 525 states that there is a difference because of the purpose of the law, which is established to reveal impediments to marriage; but the impediments of the man are not known in the woman's parish, and the same applies to the impediments of the woman in the man's parish; therefore, in both parishes, the banns must be proclaimed. Cf. Sánchez 1. c. n. 4. This understanding of the Council of Trent is also confirmed by the commonly accepted practice, and indeed, even before the Council of Trent was in force, where the decree of Lateran was strictly observed. Cf. e.g. c. 95 sq. 99. Synod. Trevir. (c. 1300); Schulte, Ius matrim, p. 41. note., where other examples are cited; Instr. Card. Rauscher §§ 60. 61. Finally, the Roman Ritual explicitly states: "If the man and woman are from different parishes, the announcements shall be made in both parishes" (1). III. If one or both of the betrothed have multiple residences, e.g., one or two true residences and, furthermore, a quasi-residence, then, strictly speaking, announcements are required in all of those parishes. For the words of the Council of Trent and the Instr. S. C. Inquis. of August 29, 1890, perfectly confirm this, and all of these are proper parishes, and moreover, the purpose of the Tridentine

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decree itself suggests this, since such betrothed couples, whether in their true residence, e.g., in summer or spring, or in some extraordinary quasi-residence, often have multiple opportunities to contract impediments. IV. If a person has abandoned a certain part of their true residence or quasi-residence, the pastor of the place abandoned is no longer the proper pastor of the betrothed, and therefore, strictly speaking, according to the Tridentine law, announcements should not be made there, provided that other legally prescribed requirements are observed, e.g., regarding the proof of freedom of status. This interpretation of the Tridentine text is confirmed by three consistent responses from the S. C. C. Indeed, in the ancient lib. 2. Decret. (S. C. C.) (1) If Reiffenstuel 1. IV. t. 3. n. 9., along with Laymann, Palao, and Pirhing, teaches that even in this case, by custom, it is possible to make the publication of the banns only in that parish in which the marriage is celebrated, such a custom is not proven by those authors in fact, nor can it be said to be inherently reasonable and legitimate; hence, more recent writers often omit or even expressly reject such a limiting clause.

[*Latin ed. p. 524*]

524 From the Most Holy Council, completed before the year 1580, page 183, the following is read: "Theodorus Bertoncellus, from the land of Guastalla, and Meridiana Paganella, of Rome, desiring to contract marriage, took care that the marriage should be announced three times in the church by their own parish priest. After the announcements had been made, and they wished to proceed with the celebration of the marriage in the presence of the church, the vicar of the local archpriest forbade them, because it had not been announced in Rome, where Meridiana was born. However, since we are dealing with the interpretation of the Council of Trent, and it is truly not the case that this woman was 'vaga,' having resided for eight years or thereabouts in the same place, we humbly beseech that you would deign to entrust and command the aforementioned vicar to permit the celebration of this marriage, if Meridiana has resided in the aforementioned place of Guastalla for seven or eight years, according to the rites of the Holy Roman Church. The response was: 'Nothing prevents the petitioners from contracting the marriage.' Similarly, in the case of Vercelli, in which a woman was concerned who had remained for ten years outside the place of her origin in another place, where she contracted marriage, and where only the announcements had been made, to the question: 'Are announcements necessary in the place of origin?' The Most Holy Council responded on May 9, 1719: 'No.' Finally, in the case of Senigallia (1), the same Most Holy Council responded on April 3, 1734 (1) In another case of Senigallia, on January 29, 1684, the following situation was presented: "Bartholomew, son of John Titta, of the origin of Senigallia, desiring to contract marriage outside the place of his origin, requests that it be declared whether, beyond the bond of matrimony, announcements

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of marriage must necessarily be made even in the place of origin, as the parish priest claims, before whom the marriage is to be celebrated." "The response was: 'ANNOUNCEMENTS ARE ALSO NECESSARY IN THE PLACE OF ORIGIN.' This response of the Most Holy Council seems to be contrary to the three responses cited above. Indeed, Gasparri, book 1, chapter 163, seems to interpret the response of January 29, 1684, as referring to the case in which the contracting parties had recently arrived in a new parish. Certainly, the Most Holy Council could have prescribed what an ordinary Bishop could have done in similar circumstances, as is evident from the Instruction of the Most Holy Congregation, of August 29, 1890, if the announcements in the place of the new domicile do not seem sufficient. It should not be thought that, because of the petition of a woman litigating with her parish priest, the Most Holy Congregation abandoned its practice of responding 'in the case,' considering the circumstances, and instead gave a general declaration of law, ALWAYS and in all cases, regarding announcements."

[*Latin ed. p. 525*]

COLONIEN. 525 states: "No," that is to say, announcements are not to be made in the parish of Macerata, even though the bridegroom, born in the town of S. Elpidio, had already come to Macerata as a child and had resided there until the year 1729, when he moved to Sinigaglia. Even though, strictly speaking, announcements are not necessary in the parish of origin, nevertheless the Sacred Congregation of the Holy Office, in the aforementioned Instruction, dated August 29, 1890, teaches: "It is also fitting that [the announcements] be made in the place of origin, if the contracting parties have resided there after having attained the age suitable for contracting marriage, and also in the places where they have resided for at least ten months, unless they have already established their domicile for several years in the place where the marriage is to be celebrated." Therefore, where similar particular regulations exist, for example, in France and Bavaria, those regulations should undoubtedly be followed. See Gasparri, *loc. cit.*, n. 163; *Collectio Sac. Rituum*, vol. Matrimonium, vol. III, n. 39 and following. However, if one of the contracting parties has acquired a true or quasi-domicile in the parish in which they wish to contract marriage for only a short time, there are authors (e.g., Sánchez, *loc. cit.*, n. 6, 7, and others) who believe that in such a case, the announcements can be omitted there. But this opinion and practice of the doctors is perhaps difficult to reconcile with the words of the Council of Trent; for the parish priest, in whose parish the contracting parties have acquired a domicile for only a short time, is their proper parish priest, to whom the Council of Trent declared that announcements for marriage are also necessary in the place of origin. Therefore, this particular regulation of the Sacred Congregation cannot be applied to other dissimilar cases. However, it must be conceded

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that the assumption of Gasparri is not sufficiently substantiated by the facts, and that the words of the response sound rather general. Hence, another response is also readily given, namely, that the Sacred Congregation has, through two subsequent responses in the years 1719 and 1734, departed from the interpretation given in 1684, and has once again adopted the older interpretation. And there is nothing surprising in this: the same thing has happened in other interpretations of the law of Trent, for example, in the obligation of parish priests to say Mass only on Sundays and feast days, abandoning the older distinction between small and large benefices, and between the obligation only on Sundays and feast days and also on weekdays. Similarly, the Sacred Congregation did not maintain its older interpretation regarding Metropolitans, who enjoy the right to convene a provincial council, and applied it to certain Archbishops of Lower Italy, and later did not maintain it. See Benedict XIV, *De Synodo*, dioec. 1. II, cap. 4, n. 4 and following.

[*Latin ed. p. 526*]

526 From the decrees of the Holy Council, the following are prescribed. It cannot generally be said that proclamations are useless in this case, since the parties contracting the marriage are scarcely known in the new parish, and therefore, according to the intention of the legislator, publications may be omitted. This uselessness, however, can be understood if the parties (1) celebrate the marriage shortly after arriving in the new parish; but this does not apply if several weeks have already passed there before the wedding. It is not necessary, indeed, that anyone be known to the entire parish, as in our age, in larger cities, proclamations could be omitted; but it suffices that they are known to their parents and neighbors, and, above all, that they may have contracted an impediment; but, given the heedlessness of people regarding impediments of affinity, public status, or betrothal, this can happen within a short time. Cf. Gasparri, *loc. cit.*, n. 163. VI. If vagrants wish to contract marriage, it certainly pertains to the parish priest of the place where they are staying; for he is their proper parish priest; but, since the intention of the legislator must also be considered, it is often prudently required that the banns be published even in the place of origin of the vagrants, or where they have stayed for a longer time. This rule is also cautiously applied to those modern vagrants who, according to canon law, are considered vagrants in larger cities. 7. And these things are sufficient for the first part of the Tridentine text; it remains to briefly explain the second part: ″Marriage... shall be publicly announced in the church among the solemnities of the Mass.″ Although the Council of Trent does not add ″parish church″ after the words ″in the church,″ it is to be understood from ancient law and context that it refers to the parish church. For, in chapter 3, X, concerning clandestine marriages, IV. 3, it is prescribed that marriages be ″publicly proposed in churches by priests,″ and those priests, according to

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the ancient manner of speaking, in which the recently coined word "parish priests" was not yet in use, (1)

(1) This time can certainly be more precisely defined by diocesan statutes or a legitimate custom approved by the Bishop.

[*Latin ed. p. 527*]

COLONIEN. 527: The term "ceptum" refers to "proper priests" or pastors, and consequently, the discourse pertains to the churches of those presbyters, i.e., parochial churches, and not to those of other clerics. Furthermore, the Tridentine text must be understood to refer to the church to which the proclamation of banns pertains. This right belongs to the proper pastor; therefore, the church must be understood to be the parochial church without further specification. However, since the purpose of the law is to ensure knowledge of impediments, and furthermore, consideration must be given to the words "during the solemnities of the Masses," to which the people who are to be informed about the marriage are considered to gather, it is certainly not permissible to be confined to the literal meaning of the words and the material significance of the church. Therefore, if the solemnities of the Masses, to which the entire people are accustomed to gather, were to be celebrated outside the parochial church in another church of the locality, for some extraordinary feast, then certainly the matrimonial proclamations can and should be made in that church, and not in the abandoned parochial church. Moreover, the theologians and canonists further discuss the abrogated or festive vespers and days, which is irrelevant, since in this matter there would be no difference between the mother church and the filial or quasi-parochial church. 8. From what has been deduced from the Tridentine text, two very important conclusions seem to be evident: I. Nowhere in common law is it prescribed that, for the same betrothed persons residing in the same parish, two proclamations of marriage should be made on the same day, on a feast day or Sunday, in different churches of the same parish; for the Council of Trent speaks of a church, not of churches, and indeed, the words "in the church" are not even expressly added, "parochial." Furthermore, all writers maintain that, in an extraordinary case in which the solemnities of the Masses are celebrated in another church of the same parish with the universal gathering of the people, a second proclamation on the same day in the parochial church is by no means necessary, even if there happened to be another Mass celebrated there before the altar and before some elders. For the best reason, they urge adherence to the rule of law 88 in Sexto: "Certain..."

[*Latin ed. p. 528*]

528 From the decrees of the Council, it is established that he who, embracing the words of the law, acts contrary to the will of the law, commits a transgression. Therefore, just as it would be a certain form of formalism or

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ecclesiastical bureaucracy if a parish priest, clinging to the "bark of words," were to publicly proclaim, in a case presented by a cleric, in the parish church with almost the entire population absent, and, conversely, would fall into the same fault if, for mere form, he were to repeat proclamations already made in another church, within the walls of the parish church, with scarcely any people present. Hence, if in some dioceses of Germany and Austria, proclamations must be made both in the mother church and in its subsidiary church within the same parish, by order of the Bishops, for example, in the diocese of Rottemburg or Brixen (cf. Wéber, *Imped. canon. matr.* p. 3, 6, 7; Aichner, *Compend. iur. eccl.* p. 574), such particular regulations are certainly praiseworthy; but since they clearly depend on special circumstances that do not exist elsewhere (for there, those "subsidiary churches" (*Filialen*) are not, in fact, independent and separate from the mother church), it does not follow that, in other circumstances, proclamations can be made solely in the mother church or solely in the subsidiary church. Hence, Aichner, in the work cited, writing to Bangen, says: "The parish church is understood; but it can be another, if the parishioners generally gather there and the parish Mass is celebrated there." II. A second consequence to be drawn is that, in this disposition of Trident law, the end to which the banns are ordered as a means must be primarily considered. That end is the investigation and knowledge of impediments, for which the faithful people must also be instructed and compelled by proclamations. Hence, the proclamation must be made before those who are informed about the condition of the intended spouses, and in that church where solemn Masses are celebrated, to which that people is accustomed to gather. Therefore, just as it is an excessive formalism if proclamations were made before the empty walls of the parish church, so too, it is...

[*Latin ed. p. 529*]

COLOGNE. 529. It is entirely inappropriate to proclaim the banns within a church filled with the faithful, who are all laboring under perfect ignorance of the persons whose names have been read aloud from the pulpit. This reading within the church has the same effect as if it were done in a completely empty church. Therefore, in this matter, it must be primarily considered that the church is the one to which the faithful parishioners, drawn to the solemnity of the Masses, habitually come; otherwise, one remains entangled in the husk of words and acts contrary to the intention and will of the legislator.

9. With these premises, the way seems to be open to resolve the doubt proposed by the Archbishop of Cologne. Firstly, it appears that it is necessary to abstain from proclaiming the general principle that the publication of marriage banns in the parish church alone is entirely sufficient, and that it does not require publication even in the chapel. For no one has demanded such a general declaration, nor can any reason be assigned for which a

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certain general response would be necessary. Furthermore, a praiseworthy and legitimate practice in this matter depends on many particular circumstances, from which one can arrive at a conclusion, for example, that in this region, it is sufficient for all concerned to have the banns proclaimed only in the parish church, and that they are made in the chapel only for the praiseworthy practice of greater security; but conversely, that publications made only in the chapel are not sufficiently in conformity with the law of Trent, because perhaps one of the contracting parties is not sufficiently known there, or perhaps both parties frequently converse in the territory of the chapel, which is often very limited within the larger parish. Moreover, from the dioceses of Germany and Austria, as mentioned above, no complaints have yet been brought forward regarding the double proclamation in the parish church and the chapel; therefore, in that practice, which has been introduced by the general declaration of certain bishops, there does not seem to be any need to make disturbing changes. This disturbance of discipline is especially to be avoided in Austria, since there, even the civil government intervenes with its decrees in the matter of proclaiming marriage banns. Cf. Aichner, op. cit., p. 573, 578.

10. If now the cases of Cologne are to be examined, *Acta*, Volume XXXIII, page CCCXCIII, 34.

[*Latin ed. p. 530*]

530. From the decrees of the Council, it is evident that there is now a double series of proclamations, which, as I have already demonstrated, does not have a solid foundation in Canon Law. Furthermore, those parishes of which we are speaking consist of a mother church and dependent or quasi-parochial churches, which are very far apart from each other, as expressly testified by the Most Reverend Archbishop. Then, these dependent or quasi-parochial churches are administered by their own pastors, just like independent parishes, and are only not yet formally and canonically erected as parishes because of a lack of endowment. It is also fitting to add that, in these regions, the civil government also intervenes to establish parishes, claiming the right to approve the erection of new parishes and to inquire into the sufficiency of the endowment. Therefore, it can happen that, due to the conditions required by civil law, the erection of a new parish cannot proceed, even though, according to Canon Law alone, the division could more easily be put into effect. Hence, it is much more burdensome if, because of these useless formalities and impediments of civil law, unnecessary burdens are imposed on the pastors and the faithful (1). Indeed, the marriage proclamations in the mother church are reduced to a mere formality, if the names of persons about to be married, completely unknown from districts "very far apart," are publicly announced there; and the sole effect of this publication of 50 or 80 unknown names is to bore the faithful in the mother church. But the marriage proclamations estab-

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lished by the Council of Trent were intended to reveal impediments, not to arouse the disgust of the faithful without any practical benefit. Therefore, considering the general laws of interpretation, which prohibit clinging to the mere letter of the words and neglecting the intention of the legislator, moreover (1), these useless formalities in those industrial regions should also be avoided for another reason: for the number of the faithful grows with incredible speed in various districts; and this increase in the number of the faithful does not always correspond in the same way with an increase in the number of priests. Therefore, it seems necessary to take care that few priests, the pastors, are improperly drawn away from more important duties of the care of souls by useless formalities, attestations, registrations, by which bureaucratic people sometimes even in the ecclesiastical sphere harass priests.

[*Latin ed. p. 531*]

COLONIEN. 531. Considering the interpretations of the text of Trent and the conclusions presented above, nothing appears to prevent giving a response according to the requests of the Archbishop of Rome. 11. However, in order to exclude an arbitrary method of acting, it seems necessary to distinguish between those churches which are mother churches and daughter churches, or quasi-parochial churches, so that, if the matter of marriage publications is treated as if they were different parishes, they should, by no means, where it pleases, be considered as one and the same parish; for that would be acting contrary to the law and against the very arguments presented in favor of marriage proclamations being carried out solely in the daughter church. Therefore, these points should be expressed in the response to be given according to the procedures of the Roman Ritual, and a general clause should also be added, by which the entire response is restricted to the question proposed, and other rights are left in full force in related matters. Therefore, the response could be given in this manner: "According to what has been explained, considering the circumstances present in the case, marriage proclamations are not required even in the mother church, but it is sufficient in the daughter church or quasi-parochial church alone, if both parties contracting have their true domicile or quasi-domicile only in the specific district of the daughter church or quasi-parochial church; if one party contracting has their true domicile or quasi-domicile in the specific district of the mother church, and the other party in the specific district of the daughter church or quasi-parochial church, then marriage proclamations must be made both in the mother church and in the daughter church or quasi-parochial church, with all other legal precautions observed." With the foregoing premises, the question was posed as to what response should be given to the requests. RESOLUTION. The Sacred Congregation, after deliberation on February 23, 1901, decided to respond: "Considering the particular circumstances

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present in the case, marriage proclamations can suffice in the daughter churches, provided that both parties contracting have their true domicile or quasi-domicile in the district of those same churches."

[*Latin ed. p. 532*]

532 FROM THE DECREES OF THE COUNCIL OF GAETA, CONCERNING PAROCHIAL BOUNDARIES AND THE BAPTISMAL FONT, of August 11th and January 26th, 1901. Session 24, chapter 13, and session 21, chapter 4, Concerning the aforementioned. The town of Itri, located in the diocese of Gaeta, is situated on a rugged and elevated hill, and its inhabitants number approximately eight thousand, divided into two parishes: one called after Saint Michael the Archangel, which is a rectory and collegiate church; the other called after Saint Mary Major; and both churches are located within the boundaries of the town, and are situated almost one hundred paces apart, although their parochial boundaries extend along the slope of the mountain and the plain, encompassing more houses and inhabitants. Because access to the town is not easy, and the population is more concentrated in the plain, there have long been three churches there, among which the church dedicated to the Annunciation of the Blessed Virgin Mary stands out, to which, in addition to a rector, a number of priests are attached. Unfortunately, when the second parish church of Saint Mary Major was established, the boundaries of the parishes were not so clearly defined as to eliminate the possibility of disputes and doubts; these controversies easily arose because the dependent church dedicated to the Annunciation was increasingly subject to the patronage of the municipality of Itri, and because the population in the plain frequented it more than the other, causing both parish churches to vigorously claim this more worthy and prosperous daughter as their own. In the year 1671, "by way of provision, or in a non-definitive manner," the matter was settled by the Bishop through a specific decree. This decree, although not definitive, nevertheless maintained peace until the year 1858, when the question of defining the parochial boundaries was raised again; SUMMARY OF THE FACTS.

[*Latin ed. p. 533*]

GAETA, 535 – but the episcopal court was able to peacefully resolve the matter; and peace was maintained, although not permanently. For in the year 1880, the dispute arose again concerning the readjustment of parochial boundaries, and the Archbishop, as it appears, following in the footsteps of his former predecessor, settled the matter not definitively, but provisionally, dividing the parochial boundaries and assigning certain houses and workshops to both churches. – But the long-suppressed fervor of spirits erupted again in the year 1892, when it was more earnestly requested of the current Archbishop that the controversy be definitively and formally resolved. The Archbishop attempted to settle the matter by deliberation,

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but in the year 1895, the prayers were repeated for a definitive judgment, and in the recently elapsed year of 1899, when the Archbishop solemnly visited his diocese through the act of the Holy Visitation, having consulted with the visiting officials, but without the knowledge of the parish priest and chapter of San Miguel, he issued a decree on June 8th: "For a long time, the question concerning the boundaries of the Parishes of San Miguel Arcángel and Santa Maria Maior in the territory of Itri has persisted, and the Prior of Santa Maria Maior has repeatedly requested us to put an end to this matter, for the sake of peace. Therefore, as we conduct the Holy Visitation in this territory of Itri, it is our intention to satisfy the desire of the Prior. Having considered the document presented to us dated September 28, 1671; from which it is clear that the Church of the Most Holy Trinity in the territory of Itri is located, as it is asserted, within the boundaries of the Parish of Santa Maria Maior; and considering that roads often mark the boundaries of both parishes and dioceses, and the road that leads from the place commonly called Largo Fontana to the sanctuary of Civita marks the boundaries of the aforementioned parishes, so that the part of the houses that are to the east belong to the Parish of Santa Maria Maior, while those that are on the other side, or to the west, belong to the Parish of San Miguel Arcángel; having considered these things, and having considered all that is legally to be considered, in order to put an end to this matter, and to bring an end to the disputes that may arise from it in the future..."

[*Latin ed. p. 534*]

534 From the Sacred Council, we shall proceed, using our ordinary authority, and also that which we possess as Apostolic Delegate for conducting the Holy Visitation; we declare, we constitute, and we define that the aforementioned road, which begins at the place commonly called Largo Fontana and leads to the Sanctuary of Santa Maria de Civita, shall be the boundary and limit, and shall clearly demarcate the aforementioned parishes; that portion, or number of houses, without exception, as we say, which faces east, belongs to the Parish of Santa Maria Maggiore, so that the Archpriest of the Parish of San Michele shall have no right, nor shall he exercise any right, from this day forward, in any, or in some, of the houses on the eastern side of the town of Itri, and within the jurisdiction of said parish; whereas, the houses, or dwellings, which are located on the opposite side, or western side, of the aforementioned road, commonly called Largo Fontana, belong and pertain to the Parish of San Michele, so that the Parish Priest of Santa Maria Maggiore shall not dare to claim any right, or jurisdiction, in any of those dwellings, or presume to do so. Thus, in the Lord, we decree, under the penalty of suspension, which shall be incurred by him, or by those, who shall have dared to contradict this our decree."

However, the parish priest and canons of the Collegiate Church of San

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Michele refused to comply with this decree and appealed to the Holy See. In the meantime, the Archbishop sought to resolve another dispute, namely concerning the baptismal font. Indeed, there is only one baptismal font in the mother church of San Michele, but, due to the increase in population, it has long been the desire of all that another font be erected for the convenience of the people, who are widely dispersed throughout the territory of Itri. - In truth, in the year 1875, the parish priest of the Church of Santa Maria Maggiore submitted a petition to the Sacred Congregation for Councils, in which he requested permission to erect a baptismal font. However, since no benefit would accrue to the faithful, since the Church of Santa Maria Maggiore is located on the summit of Colle, just as the Church of San Michele, and access to it is no easier, the Sacred Congregation responded, "It is not expedient." However, the Archbishop, intending to satisfy their desires,

[*Latin ed. p. 535*]

GAETA. On the 535th day, those who desired and requested a baptismal font in the plain, on June 9th, in the year 1899, through the act of the Most Reverend Visitation, but without, as it is said, the consent of the chapter of Saint Michael, issued the following decree concerning a second communal font; namely, a communal font for both parishes. The Decree: "For a long time, the necessity of more easily attending to the baptism of infants in the town of Itri has been made clear to us." "For the nature of this town is such that part of the inhabitants of both parishes is located on the sides and on the summit of the hill, while another part, which is growing daily, lies in the plain. It has been most grievous, and not without inconvenience and dangers, especially during the winter and summer seasons, to carry infants to the top of the hill, where there is a single baptismal font, common to the parochial and collegiate church of Saint Michael the Archangel. Consequently, it has often happened that baptism, without our consent, has been postponed for several days, or it has been necessary to administer it in the chapels of Saint Roch and Saint Leonard, compelled by the fathers and godparents, neglecting the parochial church. In order to meet this new and disapproved custom, and at the same time to provide for the easier and more necessary administration of this first and most important of the Sacraments, fulfilling the wishes of the citizens and the entire town of Itri, we permit that a second baptismal font be erected in the church of the Most Holy Annunciation, which font shall be communal for both parishes of Saint Michael the Archangel and Saint Mary Major, without any prejudice to the rights of the parish priest of Saint Michael the Archangel concerning the candle, which is offered by custom by the godparents, and which will always be offered to him whenever he baptizes the infants of his parish." "The candle, however, which is offered by the godparents of the infants of Saint Mary Major, shall be given to the church of the Most

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Holy Annunciation, which will take care of the font." But the clergy of Saint Michael did not consider it necessary to comply with this decree, and therefore appealed to the Holy See.

[*Latin ed. p. 536*]

536 FROM THE SYNOPTIC DISCUSSION OF THE HOLY COUNCIL. The Canons, concerning one and the other question, have presented many arguments in a lengthy document, so that the nature of these decrees may be shown to be both contrary to justice and to equity, so that it is necessary to infirm them through the work of the Apostolic See: The Archbishop, on the contrary, argues, noting many things, in order to defend his decrees, especially because they were issued during a time of sacred visitation; during which time Ordinaries act as delegates of the Apostolic See; furthermore, relying on weighty reasons. OBSERVATIONS FROM OFFICE. Firstly, the text of the Council of Trent invoked by the Archbishop seems to refer to the case in which the boundaries of parishes are not at all defined, namely: "Also, in those cities and places where parochial churches do not have certain boundaries, and their Rectors do not have a proper people whom they govern, but administer the sacraments promiscuously, the Holy Synod commands the Bishops, etc." (Session 24, chapter 13). Furthermore, in the regulation of boundaries not yet defined, the matter is not to be expedited, unless it is done through a certain process whereby the rights of the parties are carefully considered. But in the matter at hand, it seems to be about a dismemberment, or at least the necessary process must be observed for determining the dismemberment, because both the chapter of Saint Michael and the parish priest of Saint Mary arrogantly claim a right in the church of the Most Holy Annunciation; and the possessory decree of the year 1671 admitted that the petition was doubtful, and only granted an interdict of maintenance in favor of the church of Saint Mary. - However, the decree of the Holy Congregation of Rites which attributed the church of the Most Holy Annunciation to the parish of Saint Michael is not easily to be set aside, since it is also referred to today in the new collection, number 1409 (2516). Regarding the process to be observed, the following must be held: For a just and legitimate urgent cause, the Bishop can, and indeed must, proceed with divisions of parishes, as...

[*Latin ed. p. 537*]

GAETA 537 cites the decree of the Council of TRENT, Session 21, chapter 4. Because such a division must be made for a just and legitimate cause, positive law establishes that certain formalities must be observed in carrying out divisions or dismemberments, by which the existence and legitimacy of the cause are proven, as taught by Fagnanus, chapter concerning the Hearing, number 29. These formalities, as the aforementioned Doctor states (op. cit.), are: the citation of the Rector of the Church whose property is

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being divided, so that his consent may be ascertained, and also the notification of those who have an interest; thus, Fagnanus (op. cit.), number 30, and Pignatelli, Consultations, 230, volume 4, number 18. Furthermore, the consent of the Chapter of the Cathedral Church is required, according to the arguments in "Cum Nos" and "Cum Pastoralibus." Concerning those things done by Prelates. The Rota, in the recent decision 224, question 10, paragraph 35 in Adrien, Parochial, dated December 18, 1779, § Altera, states that a process must be duly carried out. However, Loterius, "De re benef.," book 1, question 28, number 34, and others cited in Spiren, before the Sacred Congregation for the Erection of Churches, dated March 31, 1770, § Re, state that a formal process is not required. If the matter concerns a vacant or widowed benefice, the consent of a defensor must be obtained, appointed by the Bishop, whose office it is to investigate the legitimacy and truth of the necessary cause, as Leurenius, "For. benef.," part 3, section 2, chapter 2, question 954, number 4, and Corradus, "Praxis benef.," book 3, chapter 2, number 2, state. The procurator fiscalis of the court can fulfill the office of defensor, and if that is lacking, the Bishop himself; but it is not uncommon before the Sacred Congregation for the Erection of Churches that the investigation of the dismemberment is postponed until a Rector is appointed, who can defend the rights of the Church, as in Fiesole, Dismemberment, dated April 27, 1816, § Necessitas. The Sacred Congregation for the Erection of Churches has repeatedly declared that no dismemberment made by the Bishop is valid if these formalities are not observed, and especially if the consent of the Chapter is not obtained, as can be seen in Pallottini, volume 8, page 487, and following, where numerous such responses are collected. Whenever just causes for dismemberment are present, unless...

[*Latin ed. p. 538*]

538 From the Decrees of the Sacred Congregation, it is taught that it is necessary for the parish priest, the chapter, and those who have an interest, to agree; as many, Fagnanus, chapter "Ad audientiam," all agree that, in this case, consent is not required by law, but only for the sake of avoiding prejudice, or in order to remove prejudice, as the Rota decided before Crispo, session 221, number 14, in Recanati. Arguments of the Congregation for the Dispersed, February 18, 1854, § Unum. Regarding the second decree, the following observations have been made. According to the older discipline, only the cathedral churches possessed a baptismal font, and the Bishop himself used to participate in the administration of baptism, as is shown by Benedict XIV, *Institutiones eccl.* 1, number 4. With the passage of time, baptismal fonts were also granted to simple parish churches; so that the jurisprudence of the Sacred Congregation has affirmed the principle that each parish should retain a baptismal font, provided that a baptismal font does not exist in some churches which are called "mother churches" or "baptismal churches," as Fagnanus states,

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chapter "Contingat, De decimis," number 59. Therefore, baptismal fonts are often common to several parishes, but erecting a common font is the same undertaking as erecting a font specifically for one parish. Indeed, it was defined by the Sacred Congregation in Lycia, April 19, 1606, that the baptismal font should be maintained solely in the cathedral mother church, and that all the children of the city should be brought there to receive the Sacrament of Baptism. The Sacred Congregation declared that the erection of a baptismal font in the parish church of *S. Mariae Novae Castri Seronis* by the Bishop during his visitation, according to the petition of the parishioners and against the protestation of the mother church, should be maintained; but that, according to custom, the parishioners are free to bring their children to be baptized in other churches; as is stated in Fulginati, "De Fontis baptismalis," June 22, 1720. However, the Sacred Congregation also grants permission for the erection of a baptismal font, but with the consent of the Ordinary and those who have an interest, as in Massilia, church of *S. Stephani*, January 1640.

[*Latin ed. p. 539*]

GAIETANA 539 Nevertheless, considering the great benefit to the people and the difficult access to the Church, which is equipped with a baptismal font, it is considered a legitimate reason for which the Bishop may decree the erection of a new baptismal font, even if the mother Church has thus far used the private right of baptizing; in Guardian, Baptismal Font, April 23, 1735, § In; and in Spoletana, Baptismal Font, January 28, 1832, § Etenim. However, a baptismal font should ordinarily be erected in the parish church, but on one occasion, the Sacred Congregation of the Council confirmed a decree of the Bishop, by which the erection of a baptismal font was established in a chapel, due to the roughness of the roads or the great distance of the places, even if the mother Church objected, as in Urbevetana, Baptismal Font, December 14, 1748, and in Neapolitana, Decretorum, February 29, 1744*. The nature of this case is explained as follows: - The only parish mother Church of Saint Michael the Archangel is located on the island of Prochyte, which was later expanded. With the increase in population, also chapels and subsidiary churches were added. Cardinal Spinelli, the Archbishop of Naples, visiting the island, decreed that those born within the boundaries of the Church of Saint Michael the Archangel should receive baptism in the parish church; however, due to the distance and the length of the journey, he wished that a baptismal font be erected in the Church of the Annunciation of the Blessed Virgin Mary, so that those born within the boundaries of that church and of another church of Saint Anthony the Abbot, might be baptized there, and that the priest or chaplain of the primary baptismal church should deliver the names of those baptized each month to the perpetual vicar, so that they might be recorded in the nominal books and baptismal certificates issued. This decree was

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challenged by Cardinal Rufius, the Commendatory Abbot and perpetual Vicar; therefore, a pertinent doubt was declared, and the decree regarding the erection of the baptismal font was upheld, provided that the consent of the vicar was obtained, and that the baptismal font should not be retained solely in the mother church, according to the intention. Therefore, it is not entirely foreign to the practice of the Sacred Congregation of the Council to consider reasons that are contradictory, which are not sufficiently or formally...

[*Latin ed. p. 540*]

540 From the proceedings of the Holy General Council, the following matters have been examined by the Ordinaries concerning the determination of parochial boundaries, or the erection of parishes, or baptismal fonts, so that the Holy See may examine and consider the same reasons in order to resolve the question of whether episcopal decrees should be confirmed or annulled. After the observance of festivities, especially in this our age, the reason for the salvation of souls must be given the greatest consideration.

I. Question: Whether the decree of the Archbishop of June 8, 1899, should be confirmed or annulled in this case.

II. Question: Whether the decree of the Archbishop of June 9, 1899, should be confirmed or annulled in this case.

The response to these questions was given on August 11, 1900: "It is to be delayed and written to the Archbishop, whether he has only determined uncertain parochial boundaries, or whether he has also determined those already established in some part; and he should hear both the parish priest of Saint Mary and the Archpriest and Chapter of Saint Michael, so that they may explain whether, and in what respect, their rights have been violated by the decrees of June 8 and 9, 1899; and the Chapter of Saint Michael should state what rights it claims for itself in the Church of the Annunciation, and present documents by which it presumes to prove its intention."

The Archbishop, the Chapter, and the Parishes, having carried out the orders, presented to the Holy See whatever had been requested of them, through a lengthy discussion and numerous documents, which are found in the records of the Holy See. All the documents presented by the Chapter of Saint Michael clearly show that controversies existed almost constantly between the Chapter of Saint Michael and the clergy of the Church of Saint Mary Major, since they contain decrees issued to end the disputes.

With these observations in mind, the proposed measures are to be considered further.

[*Latin ed. p. 541*]

541 GAETA. Doubts. I. Whether the decree of the Archbishop of June 8, 1899, should be confirmed or annulled in this case. II. Whether the decree

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of the Archbishop of June 9, 1899, should be confirmed or annulled in this case. RESOLUTION. The Holy Sacred Congregation, after deliberation on January 26, 1901, decided to respond: To I and II, affirmatively, and with the following understanding. It is the intention that all the faithful of the two parishes should be free to bring their young children to the Church of St. Michael for baptism; and that the Church of the Most Holy Annunciation should bear the burden of providing two pounds of wax in favor of the Archpriest of St. Michael.

MELPHE. RIGHT OF ASSIGNMENT TO THE CLERGY. February 23, 1901. Through summary petitions. Tolomeus Cioffi presented petitions to the Sacred Congregation of the Council, requesting that the right of assignment to the clergy of the Melphe Cathedral Church be granted to him, which the Chapter of the same Church refused to grant, alleging that the petitioner was not a citizen of Melphe, according to his birth, as the Chapter's statutes demand. But the petitioner denies this. In truth, the matter stands as follows. Tolomeus Cioffi was born in the town of Laurenzana, in the diocese of Acerenza, because his father was then serving there in a public office concerning the care of the forests (commonly known as a Vice-Inspector of Forests); but his father, Joseph, and his mother, Oderisia dei Zio, were born in the city of Melphe; and the Oderisia family originates from that same city. Furthermore, the petitioner's father and he himself were born in Melphe, when his father, Francis, from the city of Tito in the province of Basilicata, was serving there in the office of...

SUMMARY OF FACTS.

[*Latin ed. p. 542*]

542 He served as a caretaker of the forests, a position he accepted along with his family due to the nature of the duties involved. However, Joseph, after the death of his father, returned to Melphi to take up the position of vice-caretaker of the forests, and there he married Oderisia of the Zio family, and they had a son, Tolomeo, as I mentioned, in the town of Laurenzana, where he had been summoned to fulfill his duties as prince. Meanwhile, Tolomeo grew up, and when he reached the age of 15, he entered the Seminary in Múrense, within the same diocese, where he remained for four years, until the death of his father, which occurred on November 29, 1897. At that time, he returned with his mother to Melphi, where their family, the Cioffi family, had abandoned their fortune. And Tolomeo, desiring to pursue ecclesiastical studies and dedicate himself to the clerical life, was accepted among the students of the Seminary of Melphi. Later, as he sought to be initiated into the sacred orders, and requested to receive the tonsure and minor orders, he petitioned to be admitted to the clergy of the Cathedral Church; but this was denied to him by the chapter, who asserted

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that he was not born in Melphi, as stipulated by the Capitular Statutes, and this was expressly confirmed by the Constitutions of the Popes Leo X and Clement VII. Therefore, the Bishop conferred upon him the tonsure and minor orders, assigning him to another parish within the diocese. Nevertheless, Tolomeo, believing that the chapter was acting unjustly, appealed to the Sacred Congregation. A Synopsis of the Dispute. When questioned about his opinion, the Bishop, after hearing those who were interested, presented numerous observations regarding the case and the rights of the cleric Tolomeo, but he did not express his opinion in favor of either party. In the Bull of Leo X, "Exposuit nobis," it is stated in the chapter that only those "who are Italian and ancient citizens" can participate.

[*Latin ed. p. 543*]

MELPHIENSIS 543, or at least one of its citizens, and that the aforementioned Church is in the order of Acolytes, etc." With these same words, this privilege is ratified and confirmed in the Constitution of Clement VII. In the Constitutions, it is stipulated that the person must be an Italian and an ancient citizen, because at that time, there were many inhabitants of Albano Laziale in Melphi. However, in his observations, the Chapter summarizes this requirement as "being a citizen born in Melfi, and having parents, or at least one of them, who are also citizens born in the same city of Melfi." For this reason, the Chapter refused to admit the cleric Cioffi into its ranks, since he was not born in Melfi. Therefore, he argued that it did not benefit him that his mother was a citizen of Melphi, because the son inherits his origin and citizenship from his father, not his mother. However, the father of the orator was born in Melphi by chance, while his father was working as a forest warden there, and thus had a kind of domicile there. Therefore, according to the Chapter, the grandfather and father of the orator were not ancient citizens, nor even citizens of Melphi. This citizenship was even less likely to be inherited by the orator, who was not born in Melphi by chance. All the arguments presented by the canons relate to this. On the contrary, Tolomeo Cioffi pointed out that he could not be denied the citizenship of Melphi, because it cannot be called into question that he is a citizen of Melphi today, due to his domicile there, and that he is an ancient citizen, because his father had a domicile there, in addition to his origin, while he himself was born in the city of Laurenzana by chance. "Indeed," he said, "his father certainly could not be denied the origin of Melphi, who was born in Melphi by a father who had established his domicile there, and who returned there immediately and, after being granted a pension for his service as a forest warden, no longer performed that office, with the intention of leaving Melphi on the last day, which he reached elsewhere, called away by domestic necessities." This doctrine was taught by Boniface, who decreed: "Since no cleric of a foreign parish should be ordained, except with the permission of the parish itself, the superior is understood in this

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case to be the Bishop of the diocese to which the person who desires to be promoted to the orders belongs."

[*Latin ed. p. 544*]

544 Originating from the Sacred General Council, or possessing such origin, even though born elsewhere, he has his domicile in the same place, chapter 3, concerning the temporal affairs of the order, paragraph 6. Furthermore, the Acolyte Cioffi lacks nothing of the conditions established by the bulls; indeed, although he was not born in Melphi, but in Laurenzana, this happened by accident, since, by reason of his office, his father had to reside there, and thus he lost the citizenship of Melphi, in which both he and his wife were born, and he always cherished the intention of returning, where he had left his possessions and relatives. And indeed, in the city of Melphi, he always exercised civil and political rights, and his wife, with her children, returned to Melphi immediately after the death of her husband. Moreover, since conformity in matters similarly judged has the greatest legal weight, it is advisable for the Sacred Congregation to provide responses that are relevant to the matter and that clearly contain the reasons for deciding the subject case. Three questions, in particular, are helpful to consider, the first raised in 1718, the second in 1820, and the third, finally, in 1895 (1). Indeed, on March 12th of the year 1718, the Bishop of Vico Equense, against the Archbishop of Naples, the Sacred Congregation decided that the right to ordain Benedict Mannella belonged to him, although he was born in Naples, where he had lived for 35 years, working as a seller of precious stones: for it was stated that "the father was from Vico Equense, where he had a house and property, and where he often went, leaving his wife and children there." The same Sacred Congregation, on April 7th of the year 1820, decreed that the right to ordain Francis Antonucci belonged to the Cardinal-Bishop of Tusculum, although the father, of Tusculan origin, had gone to Rome, where he had acquired a house and property, and had also, in the meantime, procreated a son, Francis, and had remained there for fifty years and more. However, in the defense of the case, it was proven that Antonucci had retained a house and property in Tusculum, and that his son had lived there for 14 years, and, above all, that the father had not taken any oath that he would establish his domicile in Rome. (1) The third question referred to is found in Volume XXVIII, page 224.

[*Latin ed. p. 545*]

MELPHIENSIS 545 The cause which appears most similar to ours is that which the Most Holy Congregation praised on May 25, 1895, when a discussion took place, not only concerning ordination, but also concerning incardination to the Church with the right to receive the revenues thereof. From the year 1776, a church has existed in the city of Castellammare di Stabia, under the title of Jesus and Mary, whose statutes admit only dioce-

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san priests to the chapter, excluding all others. This is more solemnly confirmed by a declaration proclaimed by the community of priests of said church, by the authority of the Bishop himself, which decreed, as a law, that in the future, any new presbyter who wishes to join the community of this clergy "must absolutely possess natural or original citizenship in this city, that is, that which originates from his own birth in said city from a father who had already acquired domicile in the same city." However, it happened that a priest, Anthony of Naples, sought to be admitted to this community of priests, but the same clergy opposed his intention, because, although Anthony's ancestors were from this city and always possessed property there, and indeed Anthony himself had been incardinated in that diocese, his father was born in Naples by accident, and he himself was born in the Sorrento archdiocese by accident. The father was born in Naples because an uncle had gone there for business, and the son, Anthony, was born in the Sorrento archdiocese because his mother had gone to that city due to illness; however, the family maintained their domicile in Castellammare di Stabia, to which they frequently returned, even when living elsewhere. The matter was brought before the court of Castellammare di Stabia; which approved the intention of the priest from Naples, stating that the statutes of that church should be interpreted in the same way as those instilled by the sacred canons, namely, that in no way should the origin in a certain place be lost due to a birth in another place that occurred by accident. However, the clergy appealed to the metropolitan court of Sorrento.

[*Latin ed. p. 546*]

54. From the Sacred Congregation, it is known that, after the request of the presbyter from Naples was dismissed, the clergy approved the appeal. However, the Sacred Congregation of the Holy Office, to which the presbyter from Naples appealed, after carefully considering the matter concerning the question: "Whether the sentence of the Metropolitan Tribunal of November 20, 1893, should be confirmed or annulled in this case," responded on May 25, 1895, that "the sentence should be annulled." Finally, I will not omit to mention the Decree of Benedict XIII, issued by his own authority in 1727, which the advocate recalls in his pleadings, establishing that "whosoever clerics or presbyters are suitable, even if foreigners and of any origin whatsoever," should be admitted to the benefices of that Church, and that this was ordained so that the ancient statutes might be changed; but the same advocate immediately points out that such a Decree was not received favorably by the authorities, who denied its execution more than once. Indeed, the intention of the Pontiff was to abolish the privileged right, and to restore the common law, which commands, in the title "Concerning Foreign Clerics," that in conferring benefices and offices, account should be taken not of origin or domicile, but of the suitability of the clerics. Therefore, although the contrary custom rendered the will of Benedict XIII ineffective,

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nevertheless, if any doubt remained as to whether the privileged right excludes the advocate from obtaining participation in this case, it is necessary that the common law should prevail over the privileged right. But what does justice demand? Having stated these things, the question was raised as to what should be answered in the pleadings. RESOLUTION. The Sacred Congregation, having considered the matter on February 23, 1901, decided to respond: "It is established by law that the advocate belongs to the clergy of the Cathedral Church."

[*Latin ed. p. 547*]

From the Most Holy Congregation of the Holy Roman Inquisition, Instruction to the Bishops of Albano Laziale concerning the impediment of marriage in cases of abduction. Already from the year 1895, petitions have been sent to this Supreme Tribunal of the Holy Office by the Most Reverend Fathers, gathered in the Third Provincial Synod of Scodra, in which they expressed a desire that, according to the authentic interpretation of chapter V, session XXIV, of the Holy Council of Trent, it should be declared that it suffices for the validity of marriage between an abducted woman and her abductor, if the abducted woman, although not entirely separated from the abductor, nor placed in a safe and free location, affirms by oath that she freely consents to take him as her husband. This matter has been repeatedly presented to the judgment of the Most Eminent Lords Cardinals, together with myself, the General Inquisitors, who, after careful consideration and deliberation, have always and unanimously held the opinion that a general and absolute relaxation of the Tridentine law (for this is to what the matter is reduced, and not to a simple, albeit broad, interpretation) is not advisable. The Most Reverend Fathers will easily understand this resolution, if they but recall for a time the two, most important, distinctions to be made in such violent abductions of women: one arising from the head of fear, which truly affects consent, and therefore has its foundation in natural law itself; the other from the positive law of Trent, namely, abduction itself, which invalidates marriage, both because of the presumption of non-consent, and because of the abhorrence of such a crime. Indeed, with regard to the former, there is no place for dispensation whenever it is present; the entire question revolves around whether, due to the particular circumstances of these places, it is advisable to relax the Tridentine law, which is certainly not the case; whenever, as expressed in the petitions, the abducted woman, even if not returned to a safe place, gives assurance by oath of her own free consent. And truly, the accounts are horrifying concerning the frequency of these abductions in those regions, and the atrocious acts that are committed.

[*Latin ed. p. 548*]

548 REGARDING the circumstances of the Holy Office of the Roman In-

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quisition, and concerning the most serious inconveniences, indeed, the imminent danger to life, in which the unfortunate abducted woman and her relatives are very frequently placed, unless she consents to marriage with her abductor, still under his immediate or mediate power, Your Eminences have reported. However, all of these things, if the matter is examined more closely, rather suggest a confirmation of the law of Trent, than a relaxation of it. For it is known that the Holy and Sacred Council undertook such a measure in order to precisely eliminate these abuses and barbaric customs. Therefore, to derogate from this impediment for these regions in general would be the same as those who lament the abuses indirectly confirming them in some way, paving a wider path for them, and calling into doubt the recognized efficacy of this remedy by the Holy Fathers of Trent. But the remedy proposed by Your Eminences, namely, an oath on the part of the abducted woman, still under the power of the abductor, in some cases would undoubtedly provide evidence of the absence of force and fear, and of the truly free consent of the woman herself. For it can reasonably be feared that force and fear might induce the abducted woman to outwardly express her consent to marriage with the abductor, even though her inner will resists; why, then, should it not also be reasonably feared that it might compel her to affirm her own assertion even under oath? Therefore, while, on the one hand, the woman would be exposed to the danger of perjury; on the other hand, the law of Trent would be wounded. However, all of these things are to be understood concerning a derogation from the normal, and, so to speak, theoretical law of Trent; for as far as practical cases are concerned, nothing prevents, if there is some certain knowledge of the truly free consent of the abducted woman, and if sufficient reasons for a dispensation are present, that she be assisted by a dispensation. But in a matter of such importance, especially so that the most holy law of Trent may not be debased by the excessive ease of obtaining such dispensations, the judgment should be entirely reserved to the Holy See; to which, therefore, Your Eminences will not hesitate to appeal as often as, with all the circumstances of the case explained, they deem it necessary. In the meantime, the Holy See is fully confident that Your Eminences, with the pastoral care and zeal for souls that they possess, will devote all their efforts and all their care to ensuring that, whether...

[*Latin ed. p. 549*]

FROM THE SACRED CONGREGATION OF THE ROMAN INQUISITION, 549: In catechetical discussions, or in sermons addressed to the people, or even through extraordinary sacred missions, or through any other suitable means, the faithful must be instructed about the filthiness of this crime, not only morally but also materially, and about the most serious and just penalties, both ecclesiastical and civil, that have been established. For it is most shameful before God, and also extremely improper before hu-

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man society, that parents should sell their daughters, without their consent, and indeed often against their will, and as if dealing with base animals, promising a certain reward, under barbaric sanctions, and that kidnappers should abuse their own strength against innocent young girls, completely deprived of all human help. For this reason, it is also considered very appropriate that a public edict be issued in each parish, in which the shameful trade of parents and the reckless audacity of kidnappers are appropriately condemned, and the penalties decreed for these offenses, not excluding public excommunication, are solemnly proclaimed. While I earnestly pray the Lord that He may favorably assist your endeavors, I wish you all the best and success in your endeavors. Given in Rome on the 15th of February, 1901. Most devotedly, as a brother, L. M. CARDINAL PAROCCHI. DOUBT. Can he avail himself of the Pauline privilege, with a dispensation from consulting the former spouse, concerning a non-baptized Protestant man, already bound by the marriage bond to a Protestant woman, who is not baptized? Most Blessed Father, the Bishop N. N., prostrate at Your feet, humbly explains as follows: William R., a Protestant, promising that he will embrace the Catholic faith, humbly requests that a dispensation from consulting his former spouse be granted to him, so that he may marry...

[*Latin ed. p. 550*]

550 FROM THE SACRED CONGREGATION OF THE ROMAN INQUISITION. In the Holy Church, marriage can be contracted validly before the Church. The aforementioned William had entered into marriage with a Protestant woman before a civil magistrate. Neither the man nor the woman had ever received Holy Baptism; therefore, their marriage was simply lawful. Subsequently, they obtained a civil divorce and separated, and in no way is it known where the woman now resides. All attempts to find her have been in vain. For this reason, a dispensation from investigation is earnestly requested. And God, etc. On Thursday, March 13, 1901. In the General Congregation of the Sacred Congregation of the Roman Inquisition, before the Most Eminent and Reverend Cardinals, General Inquisitors, after the aforementioned requests had been presented, and with the vote of the Most Reverend Consultors having been heard, the same Most Eminent and Reverend Fathers ordered that the following be responded to: "Let the Bishop see to the conversion of the man, and, after prior baptism, let him petition the Most Holy Congregation for a dispensation from investigation, so that at least from a summary process it may be ascertained that neither the man nor the woman received baptism from the Protestants, and that the investigation would be either impossible or useless." On the following day, Friday, the 15th of the same month and year, during the usual audience of His Holiness, Pope Leo XIII, Divine Providence, as Pontiff, the Most Holy Congregation approved the resolution of the Most Eminent and Reverend Fathers and granted the

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grace. I, Canon Mancini, Sacred Congregation of the Inquisition, Notary. DOUBTFUL. Whether, by virtue of the Pauline privilege, a non-believer, converted to the Catholic faith, may abandon his own wife and live with a second wife, without first inquiring about the first. Most Blessed Father, N. N., a man of approximately sixty years of age, of the Moorish nation, from a distant province of Western Mauritania, formerly a Mahometan,

[*Latin ed. p. 551*]

From the Sacred Congregation of the Roman and Universal Inquisition, 551, a certain individual, now a catechumen of the Catholic faith, requests the grace of Baptism; but he was formerly validly married in his homeland to an unfaithful wife of the Mahometan sect, and for twenty-five years he has lived in this region, having taken a new wife of the same sect, with whom he has six children still living, and whom he would therefore find it most difficult to abandon, nor could he do so without causing some scandal. There is absolutely no possibility for him to go to his first wife, who was left behind in his homeland and has since been married to another man, in order to speak with her: the obstacles are plainly insurmountable, because the unfaithful woman resides in the most distant, hostile, and barbarous provinces, where not even a Christian has access; and furthermore, there is no means of separating her from her second husband and bringing her to the Christian faith. And God, etc. Thursday, March 13, 1901. In the General Congregation of the Roman and Universal Inquisition, held by the Most Eminent and Reverend General Inquisitors, after the aforementioned matters had been presented, and with the vote of the Most Reverend Consultors having been heard, the same Most Eminent and Reverend Fathers ordered that a response be given: Provided that at least from a summary of the proceedings it can be shown that the intervention is either impossible or useless, one must petition the Most Holy Congregation for the requested dispensation. On the following Friday, the 15th day of the same month and year, during the usual audience of His Holiness, Pope Leo XIII, after having been heard by the Reverend Father, the Secretary of the Office, the Most Holy Congregation approved the resolution of the Most Eminent and Reverend Fathers and granted the requested grace. I. CAN. MANCINI, Notary of the Roman and Universal Inquisition.

A DOUBT. Can the devotion known as "the powerful hand" be admitted?

Most Blessed Father, The Bishop of the diocese of L. in America, prostrate at the feet of the Holy See, humbly asks if the aforementioned devotion can be considered licit.

[*Latin ed. p. 552*]

552 FROM THE SACRED CONGREGATION OF THE ROMAN AND UNIVERSAL INQUISITION: Concerning a certain devotion called "The

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Powerful Hand." It consists of images and medals, originating from Europe, which depict an open hand, within which is a wound, and having on the tips of the fingers the images of the Divine Child Jesus, of the Most Holy Virgin Mary, of Saint Joachim, and of Saint Anne. Furthermore, on Thursday, the 13th of March, 1901, in the General Congregation of the Sacred Roman and Universal Inquisition, held by the Most Eminent and Reverend Cardinals, General Inquisitors, after the aforementioned matters had been proposed, and with the vote of the Most Reverend Consultors having been heard, it was commanded that the following be answered to the Most Eminent and Reverend Fathers: The aforementioned image is condemned by the Council of Trent; and let the Bishop see to it that the images, medals, and whatever writings, or formulas of prayer, pertaining to said devotion, be destroyed. 3 On the following Thursday, of the same month and year, during the usual audience of His Holiness, Pope Leo, of Divine Providence, Eleventh of the Order of the Most Holy Fathers, in his capacity as Prefect of the Holy Office, His Holiness approved the resolution of the Most Eminent and Reverend Fathers. I. CANON MANCINI, of the Sacred Roman and Universal Inquisition, Notary. DOUBT. Whether the devotion to the new Immaculate Cross is permissible. Most Blessed Father, The Archbishop of N. in the Americas, prostrate at the feet of Your Holiness, humbly reports that a new article of devotion has been placed on sale there under the name of "The New Cross of the Immaculate Conception." It is a medal in the form of a cross, bearing on one side the image, not of Our Lord Jesus Christ, but of the Immaculate Conception, and on the other, the Sacred Hearts with the monogram of the Blessed Virgin. Therefore, he requests the oracle of Your Holiness, whether such a devotion can or cannot be approved.

[*Latin ed. p. 553*]

553 E X S . G . S . R . U. INQUISITIONIS, Thursday, March 13, 1901. In the General Congregation of the Sacred Roman and Universal Inquisition, held by the Eminent and Reverend Cardinals, General Inquisitors, after the aforementioned prayers had been offered, and with the vote of the Most Reverend Consultors preceding, the same Eminent and Reverend Fathers were commanded to respond: That the aforementioned devotion is not to be approved. On the following Saturday, the 16th day of the same month and year, during the customary audience of His Holiness, Pope Leo XIII, during which the Reverend Father, the Reverend Assessor of the Holy Office, was present, His Holiness approved the resolution of the Eminent and Reverend Fathers. I. Can. MANCINI, of the Sacred Roman and Universal Inquisition, Notary.

RESCRIPT. It is permitted that the Vicar General of the Bishop, while the Bishop is absent or hindered, may delegate to confessors the faculty of receiving denunciations of solicitations.

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Most Blessed Father, the Archbishop N. N., humbly prostrates himself before Your Holiness and humbly explains the following: The Instruction of the Sacred Congregation of the Inquisition of July 14, 1753, denies Vicars of Bishops the faculty of delegating to confessors the power to receive denunciations of solicitations pertaining to shameful matters. Indeed, it often happens, or may happen, that the Bishop is absent from the city [residential area], or is ill at home, or is hindered in some other way, and in the meantime, a case arises which is more urgent, so that the confessor who requests the delegation cannot reach him. For this reason, I humbly beseech Your Holiness to grant the aforementioned faculty, so that the Vicars General of this Archdiocese may delegate, in necessary cases, simple confessors to receive denunciations. And may God, etc.

[*Latin ed. p. 554*]

554 FROM THE SACRED CONGREGATION OF THE ROMAN AND UNIVERSAL INQUISITION, Feria IV, on March 20, 1901. In the General Congregation of the Sacred Roman and Universal Inquisition, held by the Most Eminent and Reverend Cardinals, General Inquisitors, after the aforementioned petitions had been presented, and with the vote of the Most Reverend Consultors preceding, the same Most Eminent and Reverend Fathers ordered that a response be given to the Most Reverend [party], according to the petitions. On the following day, Feria V, on the 22nd of the same month and year, during the customary audience of His Most Holy Lordship, Leo, of Divine Providence, Pope XIII, granted the grace requested by the Most Reverend [party], after it had been presented by the Reverend Father, Assessor of the Holy Office. I, Mancini, of the Sacred Roman and Universal Inquisition, Notary. FROM THE SACRED PENITENTIARY APPOSTOLIC, A RESPONSE. Bishops can determine the time for the Jubilee, request an extension of the same, and otherwise provide assistance to previously established churches in carrying out visitations. To the Most Blessed Father, The undersigned Bishop, humbly prostrate before the Throne of the Most Blessed Virgin, states: 1. That, with a circular dated January 13, 1901, he designated as the suitable time for the acquisition of the Holy Jubilee in his Diocese, the six months from January 17th to July 17th. He did so believing that this was, in general, the most opportune time for his Diocese. But, since it is not possible to have the convenience of preaching and confession in all cases, and also due to the work in the fields, the months of June and July, which are the last of the six months designated, are not opportune. Therefore, in order to facilitate the acquisition of this special grace for his diocesans, he humbly supplicates for the

[*Latin ed. p. 555*]

I. The Sacred Penitentiary grants the faculty to substitute, in those parishes where it deems it useful, the aforementioned two months, namely

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November and December.

II. In the same circular, the Penitentiary granted the pastors the faculty to designate the churches to be visited. — Based on this faculty, the pastors designated chapels, but now, unfortunately, they realize that access to some of these chapels, due to their location or distance, is difficult and a great inconvenience for some. Therefore, in order to address this inconvenience as well, which could be a pretext for some not to avail themselves of the Holy Jubilee, the undersigned humbly requests the faculty to modify the designations made by the pastors, either by reducing the visits to the parish church, or to some of the existing churches in the districts, for the greater convenience of the population. That, etc. The Sacred Penitentiary, having attentively considered the matters presented, responds as follows:

Regarding the first point: Notwithstanding the promulgation already carried out of the Jubilee for six continuous months, if there is a grave and legitimate reason, the Ordinary, by virtue of the concession granted on January 25th of the present year, may, through a new edict, divide the time into parts for the entire diocese, but not for some parishes alone. — However, at the end of the last month, the same Ordinary, if he deems it appropriate, may obtain from the Apostolic See a postponement for those who have not yet availed themselves of this benefit.

Regarding the second point: — Provision is made for this in the faculty on page [number] under No. III.

Given at Rome, from the Sacred Penitentiary, on February 27, 1901.

B. POMPILII, Secretary of Grace.

R. CELLI, Substitute of Grace.

RESPONSE. The omission of the fulfillment of penance, imposed for matrimonial dispensations, does not invalidate the dispensation itself.

Most Blessed Father, The General Vicar of the Archdiocese of Cosenza requests that no penance be imposed in matrimonial dispensations granted for reasons of sin, because it is feared that the validity [of the marriage] will be endangered.

[*Latin ed. p. 556*]

556 FROM THE APOSTOLIC PENITENTIARY concerning the execution, especially when it pertains to a grave and prolonged penance. There is evidence that the penance is accepted hypocritically, and then certainly not practiced. It would be well if the Confessor were to see the penance, and that no mention of the granting of dispensations were made in this regard. The Sacred Penitentiary replies to the aforementioned: "Penitences must be absolutely imposed in the execution of matrimonial dispensations, but the omission of their fulfillment does not render the dispensation invalid." And the speaker notes that, when imposing penances that are not specified, the executor must take into account the condition of age, other qualities,

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and the circumstances of the persons to whom the dispensation is granted. Given in Rome, in the Sacred Penitentiary, on December 14, 1891. R. CARD. MONACO, P. M. R. CELLI, S. P., Substitute.

RESPONSE. The dispensation is not invalidated even if the penance was accepted with the intention of not fulfilling it.

Most Blessed Father,

Concerning dispensations for hidden impediments, the learned authorities teach that if the Confessor, through culpable negligence, does not impose the penance, he gravely sins, but, according to the almost universally held opinion, the dispensation is validly executed; however, if the penitent, accepting a grave penance, does not have the intention of fulfilling it, the dispensation is not valid.

They teach that the dispensation will nevertheless be valid even if the confession is null and sacrilegious, or even if absolution is not received. Thus, it is not from the invalidity of the confession, or from the subsequent non-fulfillment of the penance, but from the intention of not fulfilling it that the aforementioned theologians derive the invalidity of the dispensation.

Such deceptions occur continuously, namely, accepting the penance without the intention of fulfilling it. For this reason, the first petition was sent; without this reason, that petition would have been, at the very least, inopportune.

[*Latin ed. p. 557*]

537 FROM THE HOLY PENITENTIARY. The Sacred Apostolic Penitentiary, writing to the esteemed Vicar General, devoted to Christ, in response to the aforementioned matter, replies: The imposition of penance prescribed is to be considered fulfilled, even if it is received with a feigned disposition by those to whom it is granted. Given in Rome, in the Holy Penitentiary, on November 12, 1891. R. CARD. MONACO "P. M. P. Can. MARTINI, Secretary of the Holy Penitentiary. FROM THE HOLY CONGREGATION OF RITES. Various doubts. The Most Reverend Primus Battistini, Mansionary and Master of Ceremonies of the Cathedral Church of Senogallien, with the consent of his Most Reverend Ordinary, humbly requested a solution to the following doubts from the Sacred Congregation of Rites: I. To whom does the Conventual Mass, whether on weekdays or on feast days, pertain to be celebrated in the Cathedral Church? II. Whether the days of March 19 and 25 should be considered among the weekdays, so that the Conventual Mass on weekdays pertains to the Mansionaries, since the Feasts of Saint Joseph and the Annunciation of the Blessed Virgin Mary occur on those days? III. Is it permissible for Mansionaries legitimately impeded in such a case to substitute a Priest for the Conventual Mass, who is not of the clergy of the Cathedral Church? IV. Can the custom of reciting the Sext and None Hours before the Conventual

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Mass be tolerated? V. Can the Psalms be recited alternately, so that one verse is sung by the choir, and the other is recited in a clear and distinct voice, under the organ, by one of the Mansionaries? VI. If the sacred choir, which, according to the custom of this Church, sings the parts of the Mass and the Psalms of Vespers, and sometimes of Matins, is absent or lacking...

[*Latin ed. p. 558*]

358 According to the established practice, are Canons and Chaplains obligated to participate in the singing of the Gregorian chant? I. Are they obligated to pause the choral singing at the asterisk in the Psalms? II. Are they permitted to play the organ on feast days during the entire "Angelicus Hymnus" on the Lord's Supper and on Holy Saturday, from the beginning of the same hymn? Furthermore, the Sacred Congregation of Rites, after considering the aforementioned matter, with the prior information and opinion of the Most Reverend Ordinary of Senogallien, after hearing the Reverend Chapter of that Cathedral Church and others with an interest in the matter, and after a thorough examination by the Liturgical Commission, decided as follows: I. Regarding the first question: Regarding Chaplains who serve in turn, according to Decree 2548, of Senogallien, dated February 18, 1794. II. Affirmative. III. Negative, and according to the intention. IV. Regularly negative, and the rubrics should be observed. V. Affirmative: provided that the organ is not silent, and that the number of choral singers is insufficient. VI. Affirmative. VII. Affirmative, and Decree 3122 of St. James of Chile, dated July 9, 1864, should be observed. VIII. Affirmative, according to Decree 3515 of Viglevanen, dated June 11, 1880, section IV, and the rubrics. And thus it was written. On March 4, 1901.

DOMINICUS CARD. FERRATAS.

B. C.

Pref. L. * S. f

DIOMEDES PANICI

Archbishop of Laodicea.

Secretary.

SUPPLICATION

From the Abbots concerning their participation in the semi-public Consistories preceding the Beatifications.

The Most Reverend Abbots of the Ordinariate of Nullius Montis Cassini, of St. Paul of the City, and of the Most Holy Trinity of Caven, humbly implored our Most Holy Lord Pope Leo XIII, that He might grant them

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and their successors...

[*Latin ed. p. 559*]

It pleased [the Holy See] to grant, perpetually, the right to intervene and to cast a vote in the semi-public Consistories preceding the Beatification and Canonization of the Blessed, to those [individuals] who, by ordinary authority, can conduct informative proceedings in Causes of Beatification and Canonization, and to whom notification for said Consistories has been given once and again, and who have truly been present and have given their vote. It was decided that this matter should be examined and discussed by the Congregation of Sacred Rites. Obeying the mandate of the Supreme Pontiff, and after having considered, along with the information and votes, also printed documents, and after hearing from one Professor of Canon Law, the Prefect of the Apostolic Ceremonies, and finally from the Liturgical Commission, in a formally convened meeting held on the designated day at the Vatican, it was judged that the aforementioned question, proposed by the undersigned Cardinal, Prefect of the Congregation of Sacred Rites, after careful examination and deliberation, should be resolved in this manner: [That] application should be made to the Most Holy [Pope] for the granting of this privilege to each petitioner. February 5, 1901. Afterward, a report on all of this was made to the Most Holy Pope Leo XIII by the undersigned Cardinal. His Holiness, approving the resolution of the Sacred Congregation itself, deigned to grant the privilege of being present and of casting a vote in the aforementioned semi-public Consistories, not only to the three Abbots of the Oratory, but also to other Abbots who individually request it. February 9, 1901. DOMINICUS CARD. FERRATA, Prefect of the Congregation of Sacred Rites. DIOMEDES PANICI, Archbishop of Laodicea, Prefect of L. * S. Secret.

A QUESTION regarding the particular feast of the Most Holy Guardian Angel of the Kingdom. Certain editors of calendars of dioceses in Hispaniae have humbly presented the following question to the Congregation of Sacred Rites for appropriate declaration:

[*Latin ed. p. 560*]

560 FROM THE SACRED CONGREGATION OF RITES: Whether the Feast of the Holy Guardian Angel of the Kingdom should be considered a primary or secondary feast? And the aforementioned Sacred Congregation, having carefully considered the request of the Liturgical Commission, also printed, at the Ordinary Assemblies held on February 5th of the present year, 1901, at the Vatican, regarding the aforementioned doubt, presented by the Cardinal Prefect of the aforementioned Sacred Congregation, it judged that the following answer should be given: Negatively to the first part; Affirmatively to the second. "The resolution of the Sacred Council was reported to His Holiness, Pope Leo XIII, by the aforementioned Cardinal,

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and His Holiness approved and confirmed it. February 9, 1901. DOMINICUS CARD. FERRATA, Prefect of the Sacred Congregation of Rites. L. © S. DIOMEDES PANICI, Archbishop of Laodicea, Secretary.

[*Latin ed. p. 561*]

FROM THE SACRED RITUALS, CANON 561, NOTICE. The process of beatification of the venerable Joanna Thouret follows, beginning on page 229, and continuing on pages 379 and following, and 427 and following. CONCERNING MIRACLES AFTER DEATH: The immortal God is accustomed to adorn those whom He has loved with the most fervent love, and whom He has decreed to raise to heavenly honors after death, so that the memory of them may not be obscured among mortals. Among these, Joanna Antida Thouret deserves to be mentioned, whose fame, born of virtues and excellent deeds, grows and increases after her death through divine providence and miracles. I shall touch upon only a few of these. Philumena Pantanella experienced the power and efficacy of the intercession of Joanna Antida Thouret with God, who, being afflicted with a tumor on her left side, and after no remedies proved efficacious, turned to the patronage of the Handmaid of God, and found her to be salutary. For she was not only healed of the tumor, but also of the convulsions with which she was afflicted, immediately after she had, with all her heart and soul, implored the image of her, which she had received as a gift. Indeed, Joanna appeared to Philumena at night and, with her own hands, removed a splinter from her. Those parents and physicians who had seen Philumena sick before, and then healed, all agree that the girl could not have been healed by any power of medicine, by any science, or by any other means, except by a supernatural cause: moreover, this healing occurred so unexpectedly that it seemed entirely due to the Handmaid of God. Other things are also related. Sister Lucy Beauquier, a most excellent and devout woman, testified that a certain woman from Besancon, afflicted with such pains in her limbs that she was forced to immobility, was completely healed within the novena of prayers offered to the Handmaid of God; as a result of this, the priest, the pastor of that parish, placed great faith in our Joanna. Furthermore, Balthassar Carlomusto, an eleven-year-old boy afflicted with erysipelas on his mouth, was restored to health within three days after touching the image of our Handmaid. It is also read in the *L'Osservatore Romano* that a girl named Clotilde Mazzanti, in the hospital of the Castle of St. Peter near Bologna, who had been paralyzed for five years, Tom. XXXIV, page 392.

[*Latin ed. p. 562*]

562. From the Sacred Congregation, I have learned, through the intercession of Joan Antida Thouret, whom I earnestly implored with a novena, that she was immediately restored to health. Furthermore, after several sa-

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cred novenas, a certain woman, whose arms were afflicted with cancer and whose doctors had already determined that amputation was necessary, testified through her sister, Petra Bedotti, that in the year 1822, in a hospital in Tuscany, she regained perfect health. Lastly, you should also hear what a witness testified about herself in an ordinary process, using these very words: "About twelve years ago, while I was in the general house in Rome, I was afflicted with a serious illness, the name and nature of which I do not recall, and this illness lasted for about fifteen days. Because of this illness, I remember that the sisters were concerned, and for several nights, the sisters themselves kept vigil for me. Meanwhile, as the day of the Annunciation approached, the day on which the sisters renew their vows, I felt a desire to also participate in the celebration of the renewal of those vows; I asked the doctor, named Guardi, who is still living, but he replied that I could not get out of bed on the day of the Annunciation. I then invoked our Holy Mother, our Founder, to obtain for me the grace of healing on that very day, and I added that I desired a sign from her that my request had been granted. It happened that on the night of the day on which I was commended to the Holy Mother, it seemed to me that I saw, I no longer remember now whether in a dream or in reality, in my room, a woman dressed entirely in white, who held a crucifix pressed to her chest, and this for only a few moments. I then, considering the prayer with which I had asked the Holy Mother for a sign, as I have said, I judged that that woman was truly the Holy Mother. The fact is that on the day of the Annunciation, I was able to get out of bed perfectly healthy, and thus I participated in the celebration of the renewal of the vows, and since then, as I do now, I have enjoyed good health. I attributed this to the grace obtained through the Holy Mother." From these things, which we have investigated up to this point, it is clearly evident how great were the virtues of the Handmaid of God. Therefore, I believe that I have fulfilled my duty. And if I have been silent, the poor and the sick would raise the loudest voices, as many as are throughout the world who suffer from poverty and who enjoy the help of the sisters through charity. All of them would cry out that what was due to my incompetence should, at least, be repaid to the human race with gratitude.

[*Latin ed. p. 563*]

From the Sacred Ritual, number 563, it is granted. Therefore, we foster the hope that, with the favorable votes granted, you, Fathers, will judge that the commission should be established, as the entire Order of Sisters earnestly requests, and as the Reverend Nazarenus Marzolini, from the Chapel of the Supreme Pontiff, the most vigilant promoter of this cause, desires.

OBSERVATIONS OF THE REVEREND FATHER, PROMOTER OF THE FAITH, REGARDING A DOUBT:

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Whether the effect of the establishment of this commission should be declared, concerning which we are speaking, and regarding the cause in question, to the Lord. As is well known to Your Eminences, a commission was established just a few years ago for the Venerable Servant of God, Ludovica De Manila, a woman renowned for her sanctity, a disciple of Saint Vincent de Paulo, who, with the same master and guide, worked to establish a Religious Family, which is called the Congregation of the Daughters of Charity. As a result, another sacred family of Virgins, to whom the name and heavenly honors of their parent, the Servant of God, Joanna Antida Thouret, were granted, sought to petition. Indeed, I would hope that, as is desired, things would proceed favorably; however, from those things which have been wisely established by our law for the introduction of a cause, some obstacles appear to stand in the way of this intention; therefore, so that I may not neglect my duty, I immediately address them.

ON THE PROOF OF HER REPUTATION AND THE OBSTACLES TO IT.

When, in the year 1895, an Ordinary Inquiry was instituted, with authority, regarding the reputation for sanctity of life, virtues, and miracles of the Servant of God, Joanna Antida Thouret, in the Ecclesiastical Court of Naples, out of more than thirty witnesses, who were either appointed by the promoter of the cause or by office, only three claimed to have known Joanna Antida. Furthermore, these are those who are numbered I, III, and VI in the catalog.

[*Latin ed. p. 564*]

564. From the Sacred Ritual, it can be determined. Indeed, it can be inferred from the evidence, which they call "supplementary," that the Petitioners cannot make use of them in this case; for, according to the decree of the year 1741, the place for using supplementary evidence is "when, as the words of the Decree state, it has not been established that the initial proceedings were unduly delayed through malice or culpable negligence, to the point that no witnesses remain." (Benedict XIV, Book 3, Chapter 3, No. 25). Furthermore, the Petitioners themselves are not unaware of this, and for this reason they have completely refrained from presenting documents in the trial, which, for the sake of upholding the reputation of holiness, or perhaps for overcoming obstacles, might have been of great use to the entire cause; and the Patron of the Cause has imitated them, who, without considering the legal remedy by which the alleged lack of documents might have been suitably addressed, has completely set aside the documents and presented a summary. However, if in this Cause, setting aside that legal remedy offered by the decree of the year 1741, the common legal prescription is to be observed, namely, "In Causes of Beatification and

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Canonization proceeding by means other than cult, Benedict XIV teaches (Book 3, Chapter 3, No. 3), that it is not sufficient that evidence descends from witnesses of hearsay, or from a single witness of sight, together with witnesses of hearsay, but that true, complete, and adequate proof must be constituted in witnesses who have seen." Then, it must be said that the matter concerning this Cause is already concluded. Indeed, how much value should be given to those three witnesses, for whom, as Benedict XIV says, "true, complete, and adequate proof must be constituted," is clearly evident from their testimony. The first says: "In my age of nine years, one day I was taken together with my sister, Gaetana, then seven years old, by my late father to the House of the Sisters of Charity, called of Begina Coeli in Naples, where my father went to place my said sister Gaetana in that Institute, who was later a Sister of Charity, with the name of Sister Assunta, currently deceased. Thus, I saw there the foundress of that Institute, Sister Giovanna Antida Thouret, with whom my father spoke. During the time that I was with my father and the said Servant of God, I noticed in her a woman distinguished by affability, seriousness, and kindness." The second says: "In my age of four and a half years, I was admitted to the aforementioned Institute, Hella, our home of Regina Coeli, by the Servant of God, our..."

[*Latin ed. p. 565*]

From the records of the process, Sister Giovanna Antida Thouret, the foundress, with whom I conversed continuously until the age of 13, when, being a novice, she passed to eternal rest. Two witnesses provide testimony; the third seems to claim greater authority, stating: "At the age of 15, I personally knew the Servant of God, Giovanna Antida Thouret, the Foundress of our Institute; for I expressed to her my desire to enter the Community, and she accepted me. I lived with the same Foundress for about seven years, in the aforementioned House of Regina Coeli, until she passed to eternal rest." When questioned about matters of importance, she uses very few words. Thus, in response to question 24, she says: "As far as I can recall, the rules of our Institute were approved by the Holy See. The Servant of God experienced some displeasure from the Sisters of France, but I cannot tell you the reason, nor how the Servant of God behaved in regard to these matters." Regarding the questions asked in the 34th interrogation, she concludes with these words: "I cannot, however, precisely tell you the time when I and the other Sisters began to visit the aforementioned tomb." In response to the 13th interrogation, concerning a certain temptation that the Servant of God experienced around the time of her puberty; to the 14th, 15th, and 16th interrogations, concerning the Servant of God's vocation to the religious life; and to the 31st interrogation, concerning heavenly gifts, she replies briefly: "I have nothing further to add to what has been stated."

Let us pause for a moment, and see if, with this evidence, a more fa-

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vorable judgment could have been reached. You might say that there is a difficulty, since such witnesses provide very little useful information to the cause, and it would be the same as if they lacked all information; therefore, once the conditions mentioned in the aforementioned decree are fulfilled, the Benedictine privilege should not be denied to the Postulators. I hear you; and, if you wish, I will not object; but, even so, the matter is perhaps again introduced into a more complicated trap. It is known that, in order for the Postulators to enjoy the Benedictine indulgence, two things must be solidly demonstrated: first, that they have removed from themselves any suspicion, not only of fraud, but also of negligence, for which the ordinary process was delayed for a long time, until there were no witnesses left; second, that they present, in general, perfect, albeit subsidiary, proofs. But what about the Postulators of this Cause?

[*Latin ed. p. 566*]

566 FROM THE SACRED RITUAL. Concerning the first point, there is complete silence in the aforementioned work regarding the matter. The Witnesses, I say, are all silent; indeed, Witness XI, in her examination, throws out certain phrases, as it were, in passing, namely: "If this Cause of Beatification and Canonization was not promoted earlier, it is solely due to the conditions of the times." These are, of course, entirely general and easily applicable to all causes. Therefore, it is necessary that more probable causes for the delay be brought to light; and this will require diligent investigation and the presentation of evidence, especially in this Cause, since it concerns the Servant of God, who, while she lived, had fierce adversaries, and therefore one may rightly suspect that the progress of her Cause has been delayed until those adversaries have been silenced, so that, if possible, the memory of her deeds might be erased by the passage of time. As for the second point, the subsidiary proofs, which the Postulators intend to use, are not perfect in their kind; nor is this a difficult matter to prove. Indeed, the same are provided by the ordinary Inquisition, whose form, if one examines it, reveals the diligence and expertise with which the ecclesiastical court of Naples conducts its affairs. But the situation is different if, contrary to this, one considers what is commonly called "relevance." For, as is well known, the sources of subsidiary, or indirect, proofs are two: namely, oral tradition, which is obtained only through witnesses, and documents. Now, oral tradition sometimes fails, and the witnesses themselves are the ones who admit this; for, when asked to provide only what they have received from their elders, some of them are often compelled to resort to documents. Let us, therefore, consider the examples that are read in the Process. Add to these the fact that the witnesses often refer to Commentaries on the life of the Servant of God, which have been published in recent years, and which should be given considerable weight if the reputation of her sanctity has been seen to

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revive in recent years. Concerning the testimony of Witness XVIII, it is said: "The aforementioned Sister Ghambrot, speaking about the Servant of God, made me understand that the Servant of God Thouret was generally regarded in our Institute and outside of it as a woman endowed with great zeal for the glory of God, and with heroic charity for her neighbors. Regarding the reputation she enjoyed in death, I cannot tell you anything due to a lack of precise information."

[*Latin ed. p. 567*]

FROM THE SACRED CONSTITUTION OF RITUAL, 567, it is permitted to state, to the best of my knowledge, that the Servant of God, "especially since the publication of her life, which has made known her special merits," has enjoyed and continues to enjoy a reputation for holiness, both within our Institute and among those in the Frankish County who have learned of the Servant of God through those who knew her in life. A certain witness, XX, states: "This same reputation has increased, above all, within our Institute since the publication of her life, as I mentioned above; for the life itself has made known the great merit of the aforementioned Servant of God." Furthermore, there are two commentaries on the life of the Servant of God; one is written in the French language, which was published by the Vatican Press in Rome in the year 1892, and the other is written in the Italian language, which was published in Prati in the year 1893 by Giachetti, son and Company. According to the author, the former is by the Reverend Father Ferdinand Canger, S.J., who writes in the preface: "I will briefly explain the purpose of this work, so that it may be known from the beginning how it differs from that of the most illustrious Abbot Henry Calhiat, who was the first to compile and describe, in the French language, the history of the Founder of the Sisters of Charity. Having been kindly requested by the Superior General of said Institute to write the history of the Illustrious Abbot in Italian, and to expand it, especially with regard to religious and moral instruction, with ascetic and instructive reflections, which lead more to the imitation and discernment of virtues than to the mere recounting of facts, I soon decided to deviate somewhat from the original French history, not in the order and arrangement of events, but in the wording, style, headings, and division of books and chapters, in some explanations and judgments of the facts, and in that brilliant and flowing form which attracts and pleases so much... The history of the former is a bright, attractive, and delightful picture, without in any way detracting from the moral benefit of the readers; this one, on the other hand, aims above all at the spiritual benefit of the same, and is a book of practical instruction, outlined on the model of exquisite and singular virtue." Therefore, it is better to inquire about the former, concerning which the same Author, the Reverend Henry Calhiat, who is also a witness in this cause, testifies as follows: "In approximately 1889, my friend, Count Agostino

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Antonelli, who resides in Rome, and is still living, told me..."

[*Latin ed. p. 568*]

568 From the Sacred Congregation of Rites, a decree was issued on a day which I cannot precisely specify, to the General House of the Sisters of Charity in Rome, where the Mother General, Sister Maria Giuseppa Bouquet, now deceased, expressed to me with great earnestness her desire that I should write the life of Sister Giovanna Antida Thouret, Foundress of the aforementioned Institute. I replied that it would be necessary to examine the documents, which did not exist, and these were, in fact, delivered to me. These manuscripts are preserved in the Archive of the aforementioned General House. I read them and was captivated by the great merit of Thouret. Among the documents, I found notes from the Parish Priest of Sancey, who spoke of the family and relatives of Thouret, the place of her birth and childhood, and information which he had gathered from the prevailing traditions. I also read a copy of an account of the life of Thouret, written by herself at the command of her Director, Monsignor Narni, Archbishop of Cosenza, an account which ended at the time of the French Revolution. I also read a copy of a manuscript concerning the life of the same Thouret, written by her niece, Sister Rosalía Thouret, who had been Provincial of Modena. I also read a large number of circular letters from Mother Thouret, some of which were originals, and others printed; I also read various letters from the aforementioned Monsignor Narni, who spoke very favorably of the aforementioned Servant of God. I also conferred with the Sisters Montelli, who were three sisters, of whom only one survived, with Sister Henrietta Béguevé, Sisters who were contemporaries of the Servant of God, Thouret. After examining the documents, others must be added, as is evident from the Acts. Indeed, Witness X states: "She also wrote (D.S.) a defense, which was suggested to her by the Parish Priest of Tonon, in order to demonstrate the non-existence of what was imputed to her." The following are also relevant to the Biographer of the Handmaid of God: "Then the Mother (D.S.) decided to write a memorial in which she refuted one by one all the wrongs, which the Archbishop so harshly reproached her for in the brief conversation he unexpectedly had with her," and adds: "At that time, she also wrote (A.D.) to the Bishop of Annecy... The Abbot Negre answered the Prelate... and finally, he requested the following things from her, which we transcribe verbatim: - In the meantime, for the sake of your congregation, which will always be dear to my heart, I would like, my Reverend Mother, that you compose a Memorial in which you state: 1. when and..."

[*Latin ed. p. 569*]

FROM Canon Law 569, concerning how your Institute was formed: 2. how the union with the house in Paris could not be carried out over time;

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3. because the house in Besançon did not wish to accept the Rule approved by the Pope. This request from the benevolent Superior of the Seminary of Annecy obliged Thouret to write a sort of memorial of all the events pertaining to her religious life and the vicissitudes of the Institute, as well as the trials to which she was subjected. "She dictated it between March and April of 1825, and on May 2 of the following year, Negre acknowledged its receipt." Also, the letters sent to the Bishop of Cosenza, her confessor, and to the Archbishop of Besançon, especially those sent at the time when there was great discord between her and the Archbishop, as well as the document entitled "Le récit de Marie Sourdon," which is frequently mentioned in the Acts and Biographies, are extant. Furthermore, there is significant evidence that other documents existed, as the venerable Mother Superior General, Sister Leontina Vandel, asserted, saying: "As far as I know, I cannot say that writings of the Servant of God were lost, burned, or otherwise destroyed. I only know that during the Generalate of Mother Carolina Chambrot, a Generalate that lasted twenty-two years, a printed biography of the Mother was destroyed. This biography had been written by the niece of the Servant of God." These words do not pertain to a commentary on the life of the Servant of God, written by her niece, named Rosalia, since, as the witnesses state, that document still exists and was never printed; therefore, they pertain to another commentary; and it will be clearly demonstrated in the Defense what that commentary was and why it suffered such a fate. Furthermore, the witnesses state that there was a certain work written by the Servant of God which was also published: "It is our tradition," says Witness XVI, "that the Servant of God published a religious catechism for the use of the Sisters." The author also states: "The reason why the hopes of the Curate did not correspond to her (D. F.) desires, and the plans to which she aspired, although these were encouraged and strengthened by the correspondence that she maintained with Abbot Receveur, who often invited her to follow him to Freiburg, where he had taken refuge."

[*Latin ed. p. 570*]

570 FROM THE SACRED RITUAL, concerning its new Institute. These writings, as well as the aforementioned letter sent by the Handmaid of God to the Bishop of Annecy, were diligently, but fruitlessly, sought after in the legal archives. It must also be noted that the theological censor, whose words it is fitting to quote, observes: "Indeed, it must be admitted that some of the handwritten letters of the Handmaid of God are so damaged by ink and time that many words are missing, and many are blurred, making it very difficult to understand the meaning of certain passages. This is particularly regrettable in the letter addressed to the Bishop of Cusentino, in which she speaks of the weakening of her body due to the hardships and persecutions she has endured. The letter sent to Sister Basilia is incomplete, and the final part is missing. However, from what remains, it is easily de-

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duced that nothing of importance is missing, nothing that would warrant the censor's attention, and that this most pious woman is treated with less respect than she deserves."

Furthermore, there are also found erasures, and, what is more serious, alterations to the original texts, as in the manuscript of the Servant of God, entitled "Memoire de pure vérité," in which these words appear: "Then the Sisters of Paris published that we were schismatics - and these are followed by other similar statements - and they have always continued to publish it." All of these matters, given their gravity, require the opportune intervention of the illustrious Patron of the Cause; meanwhile, it is sufficient to have noted that the documents that we have examined are of such importance and gravity that they must be considered in the matter under consideration, as stated above. Therefore, in order that subsidiary evidence of this type might be perfectly valid, it was necessary to present the same in court, and to insert them properly into the records. However, what is the situation? As the records are examined, documents are found that concern a legitimate marriage entered into by the Servant of God's parents, a baptism received by her, and although an authentic document is lacking in the parish records regarding the reception of the sacrament of Confirmation, it is nevertheless inferred that she also received that sacrament; but not a single one of the documents examined, whether biographical accounts, manuscripts, or letters, absolutely nothing. Therefore, from all of this, it may be concluded that legitimate proof, whether direct or indirect, or subsidiary, is completely lacking in this Cause; and that this is the main obstacle to this Cause, as taught by B.

[*Latin ed. p. 571*]

From the Sacred Canons, number 571, from the Fourteenth Council: "... moreover, that which hinders the excellence, splendor, and, as is customary for us to say, the relevance of virtues, will be an insurmountable obstacle, but also that which hinders their proof." Indeed, if one examines the life of the Servant of God, as she herself testified and as the documents attest, certain things occur which, when asserted concerning her sanctity, seem very difficult to reconcile. As we know from the records, at the age of twenty-two, she entered the House of Girls of Charity in Paris, called Saint Lazarus, and after remaining there for five years, due to a disturbance in France, she was forced to return home and went to Besançon. There, she met the Reverend Servant of God Anthony Silvestri, who had founded a certain society of pious women, with whom she went to Freiburg in Switzerland, and she accepted this arrangement. Upon arriving in that city, she gave a new name to the Institute. Among the various difficulties that befell this Institute, one thing worthy of note is recounted by the same Joanna Antida in these words: "The superior, as she writes in her Memoirs, not knowing what else to do, made us approach the bank of the Danube, and said to

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us: 'Here we are between heaven and earth, having no asylum and being in great peril; it is necessary that all those over the age of twelve make a vow to go for one year to Jerusalem; raise all your hands to the sky and say with me...' which we did." The same event is also narrated by the Italian biographer of the Servant of God, who describes the Reverend Anthony Silvestri in this way: "It is certainly not the place to examine this last scene recounted by Thouret. Was it a wise and prudent counsel, in those difficulties, to allow oneself to be swayed by an enthusiasm suggested by the uncultivated calamity, and by a certain exaltation that should not be admitted in one who was leading young girls, deprived of everything and reduced to wandering in that way? And can it certainly be approved to bind their consciences in a moment of possible despair? It may have been a biblical and chivalrous scene, but certainly it did not represent a figure in every respect commendable." Whatever the case may be, Joanna Antida, having left the society founded by the Reverend Silvestri, wandered through the cities of Switzerland. While staying in a certain village, called Lauderon, she met two ecclesiastical men from the Archdiocese of Besançon, who...

[*Latin ed. p. 572*]

572 To encourage her to return to the religious order and to establish a new foundation there, they urged her. However, the Handmaid of God replied that she could not follow their example, because, as she herself said, she had vowed never to return to France. To this, one of them, who is said to have been the Vicar General of the Besançon Archdiocese, the Most Reverend Monsignor De Chaffoy, suggested that she return to Besançon within fifteen days, and that she should build a confessional in the place that pleased her most; and he stated that the Vicar General had granted her the faculty to change her vow. The Handmaid of God agreed, and upon returning to Besançon, she began to devote herself to the new Congregation that she was to found, when, due to the renewed agreement between Pope Pius VII and the Consul of France, and the consequent restoration of the Parisian House of the Daughters of Charity, she began to hesitate as to whether she should return there; after consulting with ecclesiastical superiors, all doubt was removed. The event, as it transpired, pleased Joanna herself: "When I learned," she wrote, "that the Community of the Sisters of Charity of Paris was being re-established, I went to the ecclesiastical superiors; I told them: 'I remained as a novice for a few years with the Sisters of Paris, I never made any vows; the first house of Paris was suppressed, and the National Assembly forced us to leave and go to our places of birth; what do you think I should do if they were to call me back?' They replied to me: 'We do not want you to go there; you have no obligation to return, we do not want to lose you; we are very pleased with you, remain in your establishments and continue to spread your Institute without any dependence on that of Paris. They have no right. They did not call me back,

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nor did they propose a reunion with them, nor did any other person.' And she continues, "A short time later, the ecclesiastical superiors told me that the Superior General of Paris had written to them, that she did not want us to bear the name of Sisters of Charity, that it was theirs; they told me to take the name of Daughters of Saint Vincent de Paul, since we had chosen him as our protector, father, and model. Then the Sisters of Paris published that we were schismatics, and they have always continued to publish it." However, as I have noted, the last words are obscured by the printing. Here, we pause briefly in the narration of events, for...

[*Latin ed. p. 573*]

From the Sacred Ritual, 573, we cannot but marvel at the fickleness of the Handmaid of God, who, indeed, has appeared to deviate not a little from the path of prudence; for prudence, being the regulator and ornament of all virtues, if anyone sins against it, the other virtues immediately wither and perish. But let us leave aside these matters, as more serious ones press. Indeed, as is known, when the question arose of establishing and approving the Rules of the Congregation instituted by the Handmaid of God, a fierce dispute arose between her and the Archbishop of Besancon, which threatened to destroy the Congregation almost as soon as it was born. It is asserted that the Archbishop of Besancon, who favored the Gallicans, and the parish priest of Bacoffe, who, along with the Reverend De Chaffoy, the General Vicar, was the first to suggest the founding of the new Institute, were the instigators of the discord. I, however, do not presume to defend the cause of the Archbishop of Besancon in particular, but if the matter is investigated more deeply, the origin of this disagreement may perhaps be found in the rather imprudent conduct of the Handmaid of God in this affair. I have a supporter of this view, namely, the theologian censor, who, when examining the writings of the Servant of God, considered it his duty to raise this very question: "Rather, could not an objection arise from the manner in which she (the Handmaid of God) treated the Prelate of Lecoz, who, after the Gallican subversion, was the first of the ecclesiastical order to govern the Church of Besancon?" While the Servant of God was staying in the monastery in Dol, in order to draw up the rules for her religious family, she herself recounts in the aforementioned biography: "I had heard that the Archbishop who was to come to Besancon had been involved in the revolution; for this reason, in order not to expose my institute, I did not give him the title of Superior; I gave it to Monsieur le Curé Bacoffe." This, however, seemed contrary to the rules of prudence to a most pious priest, to whom she had asked for advice; hence, he advised her to choose, for the time being, the Archbishops of Besancon as moderators of the Society. She adds: "The one who is coming does not have a good reputation; he was involved in the revolution." To this, the priest replied: "What do you want, he is sent to you by God and by His Church." But the Handmaid of God,

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as she confesses, "had such a great repugnance that I did not want him," and therefore "the priest became angry and almost we were beaten; he is still alive, and he can say it as I say it, and he..."

[*Latin ed. p. 574*]

574 From the Sacred Ritual, he said of her, even not long ago, to some of my enemies who delight in speaking ill of her. Finally, certain Missionaries, most devoted to the Catholic religion, approached her, from whom she also received "that she must successively give the Archbishops the quality of Superior." But she replied, "but it is unfortunate that the first one who is to come is also so." To which he responded, "yes, but it is legitimate, be at peace." The Servant of God replied, "I submit," but "when the aforementioned Archbishop passed through Dôle, I did not go to visit him. He visited our first house, and I was glad to be absent." Nor did she approach the Archbishop upon his return to the city of Besançon, although "he had given money from Louis for the broth of the poor." The rules which she had drawn up were submitted to the Parish Priest Bacoffe, and as a result of this, he proceeded to oversee the society; she submitted them to the Vicars General, but not to the Archbishop, who was to be constituted Superior, for no other reason than that "the Vicars told me not to submit it to the Archbishop, because he would be too flattered." Therefore, adhering to the advice of the Parish Priest Bacoffe, she did not see the Archbishop, except at the beginning of the second year after his return, when she finally received permission from the Priest Bacoffe to approach him, so that she might express her good wishes. Finally, as she herself writes in her Defense, "one of my pupils, who was flattering Mr. Bacoffe in order to gain his favor, and who was jealous and ambitious, made him believe that I was corresponding with the Archbishop, and that I no longer wished to acknowledge him. Finally, Mr. Bacoffe became so angry that the Archbishop was informed, and he himself took his rights over our Community, and told Mr. Bacoffe not to interfere any longer." Thus, the Censor Theologus in his vote. Therefore, after carefully examining the series of events, the Servant of God seemed to have suffered the penalty for that leniency, by which the Parish Priest Bacoffe so indulged, that he completely neglected the duties owed to the Pastor of Besançon, and that his reputation was so damaged. Nevertheless, the Archbishop of Besançon, the Most Reverend D. Lecoz (such was his name), granted forgiveness to our Foundress, indeed, until he lived, he always protected her, and he continued the Priest Bacoffe in his office. But, when the Archbishop Lecoz died, and the Most Reverend de Pressigny was brought to the See of Besançon, things turned out differently, for a brief, open disagreement arose between him and the Servant of God, in which

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the first house in the Archdiocese of Besançon...

[*Latin ed. p. 575*]

FROM SACRED CANONS 575, the Servants of God, established, are separated from the entire Family, and are torn away from it. This, however, might not have happened, if, after affairs in Naples were settled, Joanna Antida had returned to Besancon for some time, as the authors of her own biography seem to suggest. One of them writes: "Nevertheless, I believe that if she (D.F.) had done everything possible to return at least after a year to Besancon, things would have been different. While the growth of the Institute in Naples, due to the favor of the Sovereigns and the benevolence of all classes, rose in its extraordinary and magnificent foundation above the institutions of France, as the presence of the Foundress in Naples became necessary, so did it awaken various affections and judgments in France. Oh! how easily the rivalries of nations obscure even the most precious works of sanctity and of the apostolate!" All of these things, which are the foundation of the entire Cause, are, as is fitting, presented by the Patron of the Cause, so that no room may be left for doubt or obscurity. But now, let us speak of the death of the Servant of God, which is described by her biographers as follows: "The new Pope Leo XII," writes the Italian author of the Commentary, "had decreed the Holy Year which fell in 1825, and published the Bull in Rome for the Feast of the Ascension of that same year. In Naples, it was inaugurated in May of 1826. Mother Thouret was concerned for herself and for all her dependents, whether Sisters or students, the poor, and the sick, to receive the holy indulgence. On that day, she was seen more absorbed in prayer and entirely intent on making a general confession of her entire life. Perhaps the future shone for her from that side, which concerned her earthly life. Indeed, on the penultimate day of the liturgical processions, while she was with the others reciting the litanies, she was struck by a threat of apoplexy..." And it continues: "On the morning of August 24th, she fell into a greater state of prostration, and after midday, it was decided to administer the last sacraments to her. But her very grave condition did not allow the Holy Eucharist to be administered to her. She was given the Extreme Unction, accompanied by all the Sisters who were in the greatest distress." Furthermore, it is written: "From a handwritten document of a religious of Regina Coeli (of which there is also nothing in the Acts), we know that this last attack was caused by a cross that suddenly appeared to her in her mind. What it was, we do not know. To fell a plant that was already..."

[*Latin ed. p. 576*]

576 FROM THE HOLY RELIGIOUS RITUAL, weakened and worn, even a single breath of wind suffices to topple it. Here are the words of the aforementioned Sister, who was present: "Her sufferings and languor led her

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step by step to the tomb; but the last cross, which is known only to God and to myself, completed her torments." Thus, the French historian comments on these words. We do not know what this last cross was. We only know that for many years her life was a tapestry of sadness and anxieties. In 1826, the chalice of her sorrows was more than sufficiently filled. It lacked only a single drop to make it overflow, and the cross of which the Religious speaks may have been that very drop." These words, full of mystery, must be explained by the Patron, lest we be forced to hesitate in so grave a matter. March 29, 1900.

[*Latin ed. p. 577*]

577 Letters in the form of a Brief from the Most Holy Father Leo XIII, on the occasion of the centennial anniversary of the founding of the noble cohort.

LEO P. P. XIII. To Our beloved sons, protectors of Our interests, deserving and distinguished. Beloved sons, greetings and the Apostolic blessing. The fortunate events of this era, which rightly fill your noble cohort with joy these days, are not such that they do not, in some way, touch Us, and do not stir pleasant feelings in Our heart. Considering the span of past time, and recalling the various events that have befallen this Apostolic See, whether favorable or adverse, We have observed that your predecessors in office, many of whom were connected to you by kinship and affinity, remained worthy in the assigned station given to them by the Pontiff. Indeed, at the beginning of the nineteenth century, when some Roman citizens, eager to demonstrate their loyalty and devotion to the Roman Pontiff during difficult times for the Church, earnestly requested the then reigning Pope, Pius VII, to admit them into the ranks of the ancient guard, and that Pope readily acceded to their request, gladly admitting those noble men to the place of the equestrian order. Suddenly, that infamous storm arose, by which the fortune of the Apostolic See, soon to return to its former glory and splendor, was for a time inclined and almost overturned. At that time, as posterity has learned, the new knights, although inexperienced in military matters, gave a brilliant example of fidelity and virtue: they preferred to be banished to the Urban Citadel, as it were, as slaves, rather than to abandon their duty and violate the faith once given to the Pontiff. Of this merit, none of you, beloved sons, can fail to feel that you are in some way a partaker, and therefore We are pleased that you all, with joyful hearts, celebrate these secular solemnities, as sacred rites. This virtue and faith were also clearly evident in later events, and in the more recent trials and struggles of the Church, and We are certain that each of you, if the occasion arises, will maintain the same loyalty to Us, the same faith, and will offer examples of equal virtue as your predecessors. As for Us, the Acts of Our predecessors, the aforementioned Pius VII, Leo XII, Gregory XVI, and Pius IX, are available.

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Volume XXXIII, page CCCXCIV, 37.

[*Latin ed. p. 578*]

578 To those who have increased the prestige of your Order with numerous privileges and honors, following in their footsteps, We desire that through Us also, some addition of honors be conferred upon you. Therefore, lest the memory of this auspicious event, as is customary in human affairs, quickly vanish, We have decided to bestow upon you all a special commemorative medal, which will serve as a further testament to the paternal benevolence We feel towards you, who have always deserved so much from the Chair of Peter, from Us. We therefore, by Our Apostolic authority, decree that a special silver coin be struck, the reverse of which shall bear Our image, facing to the right, with two olive branches and an oak branch, between which the inscription shall read: "Leo XIII. P. M. - Custodibus. Corporis. Nobilibus - Anno. C. - Ab. Eorum. Cohorte - A. Pio VII. Dee. Suo ~ Constituta -". This special commemorative emblem, which shall be adorned with a silk ribbon, marked with alternating blue and red stripes, shall be worn on the breast of all Our Protectors, that is, those who hold this honorable office, and also of those who, having held it, have now reached old age. We grant this freely, notwithstanding any contrary provisions. Given at Rome, near Saint Peter, under the Fisherman's Ring, on the 11th of May, 1901, in the twenty-fourth year of Our Pontificate. (L. & S.) ALOIS. CARD. MACCHI. GALTELLINOREN. CONCERNING PAROCHIAL RIGHTS. On December 15th, 1900, Session 24, Chapter 18, concerning Appeals. This question, which has been debated between the Canonical Curate and the Cathedral Chapter concerning several points of law, was proposed at plenary meetings of the Most Reverend Provincial Fathers as early as June 1891; and then it was returned to you on several occasions; finally, an end was put to some of the controversies, as is reported on page 20, August 1st, 1898, in which the case, as far as the remaining questions are concerned, is COMPENDIUM FACTI.

[*Latin ed. p. 579*]

GALTELLINOREN. 579 – The following points were discussed through the following questions: I. Whether the parish priest has the right, by law, to celebrate, either alone or with the assistance of beneficed clergy or coadjutors, Masses, whether sung or solemn, on festive days or for the repose of the dead, novenas, or triduums, processions, or functions of any kind, both in the cathedral church and in the filial churches, and to receive the emoluments derived therefrom, dividing them in half with the coadjutors present, and with those assisting, in the case. II. Whether the same canon, as parish priest, has the right to receive half of the emoluments from other functions, both those celebrated in the cathedral church and in the filial churches, without the intervention of the chapter, in the case. And whether,

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in the affirmative to I or II, III. Whether the same canon, as parish priest, is due a reimbursement from the Chapter of Tel, or from the Bishop, for damages or some compensation for the prohibition made to him to celebrate functions, or for emoluments received by others, by their authority, according to the form of the petition of the parish priest of April 13, 1897, in the case. IV. Whether, and to what extent, the canon, as parish priest, has the right to receive emoluments attached to funerals, besides precedence and ritual absolutions, with or without the assistance of the chapter, in the case. V. Whether the same parish priest has the right to celebrate Masses with the presence of the Body of Christ, and those of the termini, and to receive all emoluments derived therefrom, and to perform absolutions after the Masses, in the case. And whether, in the affirmative to IV or to V, VI. Whether the canon, as parish priest, is due a reimbursement from the Chapter for the emoluments received up to now, as mentioned in IV or in V, in the case. But the controversy remained unresolved; for a decree was issued – Deferred. The matter was brought before the Most Reverend Provincial Fathers, who, in order to address this complex and protracted question, requested the intervention of the Archbishop of Cagliari, who, for the good and just resolution of the matter, sought to bring the parties to agreement. Therefore, obeying your instructions, on August 29, 1898, I sent letters to the Archbishop of Cagliari, informing him of the will of the Most Reverend Provincial Fathers, and also...

[*Latin ed. p. 580*]

580 From the Sacred Congregation of Bishops, I sent a letter to the Bishop of Galtellino, in which I reminded him of the duties demanded of the Archbishop of Calaritanus, and I urged him to provide assistance to him in that difficult task. The Archbishop of Calaritanus diligently endeavored to promote concord, but without success; therefore, on July 22, 1899, the same questions were raised again, and the following response was given: "Let the consultant deliberate and write [his opinion]." With the vote of the esteemed consultant, the matter was again proposed on May 19, 1900, and the following response was given regarding the aforementioned questions: "To I. Affirmative in all respects, provided that choral service is not impeded in the cathedral, and functions are celebrated in the chapel of the Most Holy Sacrament. To II. Affirmative. To III. Not proposed. To IV. To the parish priest, in the funerals of parishioners, besides the precedence and the ritual absolutions, all and entire emoluments are due, even if a chapter is present. To V. Affirmative in all respects, provided that they are celebrated in the chapel of the Most Holy Sacrament. To VI. Not proposed. Indeed, the chapter insisted that the benefit of a new hearing be granted to him regarding question IV, and the procurator of the parish priest requested that the two questions not proposed be again presented. I decided to accept these requests, granting the benefit of a new hearing.

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Furthermore, the procurator of the parish priest requested that the question be defined, namely, "whether the parish priest has the right to wear a stole when officiating at the funerals of his parishioners." But because this question has not yet been subject to a hearing, and in the meantime the chapter has appointed a procurator, he requested that the hearing of the question be postponed so that he might carefully consider the matter. Meanwhile, another question began to be raised. For the Bishop, in order to implement the response to question 2, issued a decree on June 2, 1900. The parish priest appealed this decree to the Sacred Congregation, and his procurator insisted that the appeal be heard immediately.

[*Latin ed. p. 581*]

GALTELLINOREN. 581, it was stated. – Regarding the doubt concerning the law of Pluvialis, and regarding the urgency of the appeal, a decree was issued: "Consideration will be given on the day the case is presented, if and to the extent that it pleases the Most Reverend Fathers." However, the Most Reverend Fathers decreed that the resolution of the doubts should be postponed, writing: "Absolutely and infallibly, until after the Easter season." A SYNOPTIC DISCUSSION REGARDING THE DEFENSE OF THE CHAPTER. The chapter, through its appointed advocate, presents the following today. – Firstly, the advocate, repeating the matter from the beginning, states that, without any doubt whatsoever, according to the Constitution of Pius VI of July 21, 1799, "Eam inter coeteras," by which the Cathedral Church of Norensis was established, both habitual and actual care of souls of that same Church had been granted to the Chapter, so that, for this purpose, all canonries and prebends were established as actual presbyteries, and their collation should be completed with the prior consent, as if they were parochial benefices. – Therefore, he points out that, in the year 1834, the condition of this Norensis Cathedral was changed by the Bull "Ad supremae," issued on the Kalends of February by His Holiness, Pope Gregory XVI. Indeed, the Archbishop Bua, at that time the Apostolic Administrator of the Diocese of Galtellinoren., considering that the care of souls, granted to the Chapter by the aforementioned Constitution, was not being exercised with sufficient diligence by the same Chapter, due to the simultaneous fulfillment of parochial duties and Chapter duties, conceived a plan of exempting the Chapter from the actual care of souls, and of assigning that care to a Canon Pastor. Consequently, on March [date missing], he sent a draft of this new institution to the same Chapter, dated August 11, 1829, in which, among other things, the following is read: "1. With the perpetual erection of the vacant canonry of Santa Rosa di Viterbo into a parochial position, and with the institution of the Canon Pastor, and with the same Canon Pastor being entrusted with the actual care of the souls of the parish of Nuoro, the Chapter will be exempted from the actual

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care of souls, considering..."

[*Latin ed. p. 582*]

582 From the decrees of the Council, it is understood that only the habitual care pertains to the Chapter; therefore, the aforementioned current care will be expressly relinquished by the Chapter at the moment when the Canon Pastor is installed. However, after mature deliberation by all parties involved, and with the approval of the Archbishop, the conditions were willingly accepted in a general assembly on August 21, 1829, which was subsequently communicated to the aforementioned Archbishop in official letters dated August 22, 1829. Indeed, the advocate rightly points out that with respect to the Apostolic Letters, whenever there is mention of the care of souls entrusted to the new Canon Pastor, it is always and continuously expressed, not merely of care in general, but truly of the exercise of care. As stated in Pignatelli's *Con. Can.*, vol. 5, canon 169, number 10: "It demonstrates that the property of care resides with the Chapter, while the exercise and actual care belong to the Canon Pastor; Lotter, * /. 1, q. 14, n. 101 ac seq.*; *Rota, disc. 316, p. 4, t. 2, recent.*" Furthermore, with regard to the executive decree, in addition to the fact that there is always mention of the exercise of care, Article X explicitly states: "Therefore, from this time forward and forever, we exempt the aforementioned Archbishop and the entire Chapter from the actual care of souls, which was entrusted to them by the aforementioned Apostolic Letters concerning the restoration of the Archbishopric." Regarding this matter, Reclusius teaches in his masterful treatise *De Ee paroeciali*, p. 1, title 5, numbers 39, 40, and 41: "There are some who, beyond what is fitting and proper, believe that the Canon Pastor was not only entrusted with the actual care of souls, but also with the habitual care, based on these words of the Pontiff inserted in the Bull of erection: 'As has been done up to now, and to whom all manner of care, with full and complete exercise, pertains, with full right, or independently of the Chapter and the Canons'; as also noted by the Rota in the Imolenese benefice concerning personal jurisdiction, June 13, 1747." Since these indications seem to me to be entirely ambiguous and dangerous, and also this: 'With all of his parochial rights fully and conveniently'; because all of these denote that...

[*Latin ed. p. 583*]

GALTELLINO. 583 states that a Canonically appointed curate can freely exercise all parochial rights, fully and in every way, pertaining to the actual care previously entrusted to him; but never those pertaining to a habitual care, which was entrusted to the Chapter. Therefore, those words, although unrestrained and general, must be understood restrictively in relation to the actual care; as is stated in the text of chapter "Among the chosen," § Furthermore, there, in the Glossa on the word "Petition," concerning in-

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struction in faith; Menoch. cons. 23, n. 4, and cons. 180, n. 4; Natta, cons. 98, n. 22; Rota, decision 350, n. 8, page 17, cited; and in Ariminen. functionum, regarding the first doubt, February 13, 1616, § Nor is it in dispute concerning the matter of Lana." The speaker notes that it would be incorrect for anyone to insist on full parochial status, as several documents seem to grant to the Canonical Parochial Vicar. For, besides what has been said, it is clear from the teaching of the Canonists that, by itself, true and proper parochiality does not include habitual care: "If anyone should perhaps believe that, in order to establish true and proper parochiality, it is absolutely necessary that actual and habitual care of souls be exercised jointly, he would be greatly mistaken in his understanding; since it is sufficient that, while habitual care remains with someone or some body, actual care is exercised by someone else" (Reclusius, De re paroeciali, part I, title 5, n. 23). Furthermore, the speaker argues, it is of no importance that it is observed to the contrary, both concerning the lack of the right to be named in the Chapter; and concerning the concurrence, in which case the Canonical Parochial Vicar is bound. For, the Sacred Congregation, in Marsorum, January 30, 1830, "Regarding Parochial Rights," recognized the habitual care of souls in the Chapter of the Collegiate Church of St. Bartholomew, although the Chapter has no right to nominate a parochial vicar. From this, the speaker also derives a response to another observation concerning concurrence; for all admit that, in the case of a Vicarious Curate, the law of concurrence does not apply only when he is appointed by the Chapter. Hence, the Sacred Congregation, in Lauden.: "Regarding Parochial Rights and emoluments," July 2, 1860, wisely maintained, the care...

[*Latin ed. p. 584*]

584. From the Sacred Congregation, it is established that the habitual functions of a Cathedral Chapter belong to it, even though the same Chapter does not have any right to appoint [a pastor] and the parish priest is bound by law to [seek] consent. Then, the advocate recalls, citing also documents from ancient law, 1.° that three types of functions have been in force: namely, Chapter functions, Canonical functions, and Beneficiary functions, as explained above; 2.° that in other churches, besides the Cathedral, sacred functions have not been exclusively performed by the Chapter, since in some cases particular Rectors were established with relative Confraternities, and there they performed only purely priestly functions, receiving the full emoluments thereof. However, the advocate points out that, from the new foundation of a parish, by virtue of the executive force of the Decree, Articles IV, V, and VIII, in addition to the types of sacred functions already in force, namely Chapter, Canonical, and Beneficiary functions, another type of function has been introduced, namely strictly parochial functions, in which the Chapter does not intervene, or other functions which are directly entrusted to the parish priest by the faithful; all of which are to be

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celebrated in the Chapel of the Most Holy Sacrament, specially dedicated to parochial exercises, and of which the Canon of the Parish has the exclusive right: however, half of the emoluments derived therefrom belong to him, and half belong to the Beneficiaries or assistants. For a better understanding of this provision, the judgment of the most illustrious Consultor is cited, dated 1891: "Therefore, the Canon of the Parish today finds himself in the very condition in which the Chapter was formerly found, namely, he has the right to half of the fruits, but he possesses no right to the performance of those functions. Since only the parochial duties are excluded, everything else remains in the same state as it was before, according to the Gregorian Constitution, except for the right to receive that half of the fruits, which previously came from the functions performed solely by the Beneficiaries, and which half today is due to the Canon of the Parish." Therefore, the Canon of the Parish argues incorrectly, from a partial cession...

[*Latin ed. p. 585*]

GALTELLINOREN. 585 concludes that the total cession of fruits is invalid. And this is so true that it is explicitly stated in the very agreement when the Chapter ceded to the Canon Regular a portion of those fruits, but with the understanding that he would participate in them in the quality of a parish priest, and with the clause that, otherwise, the functions of the beneficiaries would be converted into Canonries. Furthermore, it must be noted, the advocate insists, that this half of the emoluments, which is granted to the parish priest, must be understood only in relation to the beneficial functions, and not to those which the Rectors of the filial churches perform there; just as the Chapter previously had no part in these matters, so neither can the Canon Regular who succeeded the Chapter have any part in them. Given these circumstances, the advocate, relying on the Gregorian Constitution and the related executive decree, believes that the following must be maintained regarding the current condition and status of the Cathedral Church of Naila: 1.° As regards the care of souls, it has been transferred only to the Canon Regular, remaining habitually in the Chapter. 2.° As regards the sacred functions, those in which the Chapter has no interest must be distinguished from those which are celebrated with the interest of the Chapter. 3.° In particular, the Canon Regular, by virtue of the actual care, has the right to perform all the functions which the office of parish priest includes, or which are directly entrusted to him, but always and in all things without the intervention of the Chapter; however, he is obliged to celebrate these same functions in the Cathedral Church, only in the Sacristy of the Most Holy Sacrament, so as not to disturb the Chapter's functions. 4.° The same Canon Regular, with regard to the functions which are performed, either in the Cathedral or in the so-called filial churches, by the college of Beneficiaries, has the right to half of the emoluments. 5.° No

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emoluments are due to the same parish priest.

[*Latin ed. p. 586*]

586 FROM the Most Holy Council concerning those functions which are celebrated in filial churches by the aforementioned Rectors. 6. Furthermore, to the Chapter and Archpriest, all honors and privileges, as before, must be recognized; nor can a parish priest, as a parish priest, arrogate anything to himself from these. Hence, to question 2. – Whether a Canon Priest is due a reimbursement of damages or some compensation, either from the Chapter or from the Bishop, for the prohibition made to him of celebrating functions, or for emoluments received from others, by their authority, according to the form of the petition of the parish priest of April 13, 1897; in this case, the advocate notes that the proposed question was based on a mere ambiguity and is based on a false premise; therefore, it must be answered negatively. Indeed, the reimbursement of damages is repeated from the responses given by the Sacred Congregation of Rites on May 19, 1900, to the following questions: Question I. Whether it is legally established that a parish priest must celebrate, whether alone or with the assistance of benefactors or coadjutors, Masses with singing, or solemn, festive, or votive Masses, novenas, or triduums, processions, or functions of any kind, both in the Cathedral Church and in the filial churches, and to receive and divide the emoluments therefrom, giving half to coadjutors present or assisting in the case; – to which the answer was: Affirmative in all respects, provided that choral service is not impeded in the Cathedral, and the functions are celebrated in the Chapel of the Most Holy Sacrament. Question II. Whether the same Canon Priest has the right to receive half of the emoluments from other functions which are celebrated in the Cathedral Church, both in the filial churches, without the intervention of the Chapter, in the case; – to which the answer was: Affirmative. However, according to the proponent, the first question is ambiguous in two respects: one, which concerns the Cathedral Church, the other, which concerns the filial churches. The Most Reverend Father explicitly explained the first, restricting the right of the parish priest to perform functions in the Cathedral to the Chapel alone.

[*Latin ed. p. 587*]

GALTELLINOREN. 587 Of the Most Holy Sacrament; the other is clearly demonstrated by the truth of the matter itself; for with regard to the functions celebrated in filial churches, no right can belong to the parish priest other than that which previously belonged to the Chapter by virtue of its actual care of souls. But by virtue of this care, the Chapter previously did not have in the filial churches, except the right to celebrate functions of strict parish law; for other functions, purely sacerdotal, such as those enumerated in the aforementioned question, were celebrated either by the Chapter itself, insofar as the Chapter, especially being invited by the pious

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devotion of the faithful, or by a Canon by the name of the Chapter, or by the College of Beneficiaries, or finally by the Rectors of those very churches, according to the different degree of the desired solemnity; these rights have in no way passed to the Canon, but remain entirely with each [person].

Furthermore, with regard to the second question, the speaker notes that the functions celebrated in the filial churches without the intervention of the Chapter are either functions of strict parish law, or those which are called benefices, or finally those which are celebrated by the Rectors of those very churches. As for the two first kinds of functions, there is no question that the right to receive emoluments belongs to the parish priest; but as for the last kind of functions, absolutely no right to emoluments can belong to the parish priest, just as no such right previously belonged to the Chapter. However, the advocate claims that the proposed question is not only entirely based on ambiguity, but also on a false assumption. In truth, no other legitimate grounds for indemnity or compensation can be assigned in this case, than either 1. because the parish priest has been prevented from celebrating in the chapel of the Most Holy Sacrament, or 2. because he has been prevented in the filial churches; or 3. because in fact he has not received half of the emoluments which are due to him by law. But none of these are in accordance with the truth. First of all, as is evident from the Chapter Convocation from the year 1866, in which it is expressly ordered "to perform such functions at the altar of the Most Holy [Sacrament]," - also from another Chapter...

[*Latin ed. p. 588*]

588 FROM the plenary session of the Sacred Council on June 7, 1893, it was decided: "The Canon and Parish Priest may freely perform any instruction pertaining to his office or to devotion." - Furthermore, from a sworn deposition, it is testified that the Parish Priest "as such, could only function in the Chapel of the Most Holy [Sacrament] for the purpose of the dedicated ministry." - Not otherwise, as is evident from the sworn depositions of the aforementioned Rectors, who "also testify that the functions, whether Chapteral, Canonical, and Parochial, or those of Beneficiaries, were always performed without hindrance when they wished to intervene, either by right or by invitation." - Finally, it must be noted that, on the one hand, in the filial churches, the aforementioned Rectors have never celebrated any functions other than those strictly sacerdotal; therefore, no right belongs to the Parish Priest in this regard, as stated above. On the other hand, with regard to the functions directly entrusted to the same Parish Priest, which perhaps at times he himself could not personally perform, these have always been celebrated by the Beneficiaries; and, as with all other functions of the Beneficiaries, all of which have been performed freely by the Beneficiaries, the portion that rightfully belongs to the Parish Priest has always been fully received by him.

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Regarding Question 2: Is the Canon and Parish Priest entitled to the restitution of emoluments received by the Chapter thus far, concerning which the matter is raised in Question 4 or in Question 5? The answer given was negative, recalling that the questions have already been defined, namely Question 4: Does the Canon and Parish Priest, with or without the assistance of the Chapter, have the right to receive the emoluments attached to funerals, beyond precedence and ritual absolutions? The answer was: "In the funerals of parishioners, the Canon and Parish Priest is entitled to all and entire emoluments, even if the Chapter is present."

Question 5: Does the same Parish Priest have the right to celebrate Masses in the presence of the deceased, or to receive all emoluments therefrom, and to perform the absolutions after the Masses, in this case? The answer was: "Affirmatively, in all cases."

[*Latin ed. p. 589*]

GALTELUNOREN. 589, provided that they are celebrated in the Chapel of the Most Holy Sacrament. The advocate, referring to a previous question, states that the Chapter has never received any emoluments that belong to the parish priest with regard to the functions celebrated in the Chapel of the Most Holy Sacrament, and therefore cannot be condemned to restitution; but neither can it be condemned on the basis of the aforementioned question, since, when the Chapter has obtained the benefit of a new hearing, a clear title for restitution could never arise from it, while the dispute is still pending. Furthermore, the advocate continues, half of the emoluments, which by law belong to the parish priest at funerals, in which the Chapter has not participated at all, and the full portion in funerals celebrated with the participation of the Chapter, have always been received, and he himself will not raise any doubt about it. The advocate asserts that this right should be granted in such a way that not only the male portion, but all and entire emoluments belong to him at funerals, even when the Chapter is present, because this is consistent with truth and justice, and is clearly established by the exposition of the third question; namely, whether one should adhere to or depart from the decisions regarding the fourth question in this case. The fourth question was formulated as follows: "Whether, in addition to precedence and ritual absolutions, the Canon and Parish Priest is entitled to the entire emoluments attached to funerals, whether the Chapter is present or not." To this, the Holy Office responded: "To the Canon and Parish Priest of the parishioners, in addition to precedence and ritual absolutions, all and entire emoluments are due at funerals, even if the Chapter is present." The advocate expects a rescript: to depart from the decisions, in the sense that, in funerals, when the Chapter is present, the absolutions are related to the established emoluments and precedence. Regarding the absolutions, the advocate states that in the City of Norensis, in addition to the ritual absolutions, there are also other, non-ritual funeral absolutions in use, which

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are, of course, granted at the request of the relatives of the deceased, while the funeral procession is taking place. For each of these non-ritual absolutions,

[*Latin ed. p. 590*]

590 From the Holy General Council, concerning matters pertaining to Chapters, a tax of 2,500 Livres has been established; if, however, the Chapter does not participate, the tax is 250 Livres. For ritual absolutions, no special tax has been established, but they are understood to be included within the aforementioned funeral tax, which, when the Chapter participates, is established at 35 Livres; when the Chapter does not participate, it is 16 Livres. Furthermore, it is noted that, as a result of the Bull of Gregory, the actual care of souls has been transferred to a Canonically appointed curate, while the habitual care remains with the aforementioned Chapter of Noren. Moreover, the patron states that it is a well-established doctrine that, at the very inception of a new parish, to which the actual care of souls is transferred, the Chapter, with which the habitual care remains, may lawfully and validly reserve to itself something pertaining to that actual care of souls; but furthermore, if it truly reserves something, the true parish priest exists in that which has been reserved to it, due to the consolidation of the actual care with the habitual care, concerning that particular thing which has been reserved. From this, it manifestly follows that, given the hypothesis, if the Chapter of Noren expressly reserved to itself, at the very inception of the new parish, the right to perform funerals whenever invited by the faithful, then it must be considered the true parish priest in those funerals, and all the rights pertaining to a true parish priest must be recognized to it. Therefore, according to the advocate, the only question to be considered here is not a question of law, but a question of fact: namely, whether it can be proven that the Chapter of Noren expressly reserved to itself, at the very inception of the new parish, the right to perform funerals whenever invited by the faithful. Indeed, it is evident that the Chapter of Noren made this reservation to itself expressly at the very inception, both from Article VI of the Executory Decree; and from the solemn and authentic declaration given by the Apostolic Executor himself; and from the schema of the new institution presented by the Apostolic Administrator, in which, under number 3, the following is written: "While the emoluments attached to the burial of the deceased and subsequent commemorations will be distributed among all in the usual manner, if the Chapter is invited or inter-"

[*Latin ed. p. 591*]

GALTELLINOREN. 591: The entire chapter [of the Cathedral] will be present; and, except in this case, the chapter will deem it just that the burial, the offerings, and their proceeds be the exclusive right of

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the Canon Parochial [priest]. But only then, by the absolute will of the chapter, expressed in a letter of August 22, 1829, addressed to the Apostolic Administrator, in which these words are found: "This chapter reserves only for itself the right of burial of the deceased, when the chapter is invited to attend the funeral procession, either to chant the office of the dead, or to celebrate the canonical Masses, which are customarily celebrated by a canon on the day of death, the third day, the seventh day, the thirtieth day, and the anniversary; in which, however, the same Canon Parochial will participate, as will the other individual members." Furthermore, since the new parish was established, from the year 1831 until our present time, the chapter, whenever it has attended funerals, has always exercised the right to grant absolutions; and, what is not to be overlooked, neither the Apostolic Executor until the year 1840, nor the first parish priest, Canon M. Guisu, until the year 1868, nor the present parish priest, I. Serra, until the year 1891, found anything that once contradicted this. Moreover, three witnesses, all of greater age, shining with priestly dignity, testify that a custom of this kind existed, and still exists, in the Cathedral Church of Noren. It should not be considered that this custom is proper and exclusive only to the Cathedral Church of Noren; for it flourishes completely in all the Cathedrals of the Island of Sardinia. Furthermore, concerning the Cathedrals of Algaren, Templen, Ecclesien, Arboren, Turritan, etc., indeed, the speaker argues, it would not be far from the truth to say that this practice is common to all Cathedral Churches; for it rarely happens that a Cathedral chapter does not retain habitual care for souls, and does not reserve something for itself, especially concerning funerals, from the very foundation of the parish. The Canon Ternarius stated what the emoluments are.

[*Latin ed. p. 592*]

592 FROM THE DECREES OF THE COUNCIL and concerning how they are divided, whether a chapter participates or is absent. Furthermore, the advocate insists that a canon, who is a parish priest, cannot claim the fourth place in funeral processions; since it is clear that the entire chapter participates in funerals by reason of its parochial status. Regarding precedence, the advocate argues that in leading funeral processions, precedence should be given to the Chapter, and not to the Canon who is a parish priest. The Cardinal De Luca, in *De Praeem.*, book 2, section 22, number 9, teaches: "It is certain that when a Chapter of a cathedral participates collegially or capitularly, the Chapter of the collegiate church precedes the parish priest and any other prelate, whatever their qualifications may be." Also, Vecchiotti, *Institutiones Canonicae*, volume 2, chapter 5, page 146: "In funeral processions, the parish priest is superior to all, unless the Chapter itself is present; in which case, precedence must be given to the Chapter, while the parish priest's rights in other respects are preserved." And on

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page 151: "The parish priest has the right to occupy the last place of honor, immediately before the bier, up to the church where the burial takes place, provided that the Chapter does not participate capitularly; in which case, the Chapter is entitled to the foremost place in the procession." - (Bouix, *De Capitulis*, page 354, article 4). "If the Cathedral Chapter participates, precedence and the place of honor belong to it, and it should therefore proceed immediately before the body; the parish priest, wearing his stole, should stand immediately before the Chapter and after all others." Furthermore, the advocate insists, this should not be restricted solely to parish priests of other churches, so that a different opinion should be held regarding the parish priests of cathedral churches; this is entirely prevented by the most explicit decision of the Holy Roman Church in Aliphana, on November 24, 1691, which is reported in the most recent collection, under number 1857: "Given that Dignitaries and Canons of the Holy Roman Church are requesting a declaration regarding the following doubt, namely: Whether a Canon of the same cathedral, to whom the care of souls has been entrusted, should, as a parish priest, wear his stole and precede the other Canons, or whether he should stand and sit in the place of his reception without a stole, and rather receive the stole from the highest Dignitary or Canon?

[*Latin ed. p. 593*]

GALTELLINORE.W 593 And the Sacred Roman Congregation responded: That a Canon, to whom the care of souls has been entrusted, if he wishes to attend funerals wearing a stole and acting in the person of a Parish Priest, has no place among the Canons; but he must proceed as a Parish Priest before the Chapter of the Cathedral, after the other Priests. But if he wishes to participate as a Canon, he must stand in his designated place, but without a stole, and in this case, it must be carried by a more senior member of the Chapter. And thus it was declared and ordered to be observed. On November 24, 1691."

And if the reason for this precedence given to the Cathedral Chapter is sought, Emus De Luca, in De Praeem. disc. 21 n. 7, explains it as follows: "Because the Chapter is said to constitute and represent the very Body of the Cathedral Church, and at least in appearance possesses Episcopal jurisdiction and superiority over the Parish Priests and all others, and therefore deserves precedence." The advocate states that the particular law of the Cathedral Church of Norensis agrees most clearly with this common law, because in the executive decree, under article XII, it is decreed: "All other rights, duties, honors, precedences, and privileges that belonged to him as before, by law or custom, we decree and declare that they shall also pertain to the same Archpriest in the future, by the aforementioned Apostolic authority." From what has been said, the defender argues that the answer to the question: "Does the use of a stole belong to a Parish Priest attending the funerals of his parishioners, in this case?" is a negative one.

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Indeed, the decree concerning funerals is relevant, by which the Sacred Roman Congregation solemnly declared on April 23, 1895: I. The bodies of the deceased must be accompanied by only one cross, which must be that of the Church to which the body of the deceased is brought: provided that the Chapter of the Cathedral Church is not present, under which all those attending the funeral must proceed. III. The same Parish Priest must have precedence over all the clergy, except (if present) the Chapter of the Cathedral Church, which will proceed in the procession after the Parish Priest: except also the Chapter of a Collegiate Church, if custom dictates. This is found in the Acts, Volume XXXIII, page CCCXC1V, 38.

[*Latin ed. p. 594*]

594. According to a decision of the Sacred Congregation, the Chapter Canon should proceed with the stole and also with the *pluvialis* [a type of liturgical vestment], although the parish priest is not required to do so. V. However, the Holy Roman Church commands that all these things be observed for any churches, regardless of any custom to the contrary. Thus it decreed and ordered that it be observed. Furthermore, the speaker argues, although it has never been granted, that a Canon with parochial rights is owed the right to absolution and precedence. However, it cannot be said that the use of the *pluvialis* belongs to the Canon, rather than to the Chapter. Indeed, on the one hand, it is certain that the use of the *pluvialis* is not necessarily included in the right to absolution and precedence, since, as the Holy Roman Church declared on March 21, 1699, in the most recent collection, no. 2033, the use of the *pluvialis* is neither a testimony nor a sign of jurisdiction in the priest who wears it; therefore, it can be found in certain cases. On the other hand, it is established by a constant and legitimately prescribed custom that the Chapter has always used the *pluvialis* whenever it attends funerals. Moreover, in matters of honor, "everything is determined by custom, which is always considered the regulator" (De Luca, *De regulis*, discourse 19, no. 7, and Rota rec., p. 10, decree 254, no. 15, p. 4, title 2, *Romana Praecedentia*, May 18, 1620, no. 4, p. 5, title 1, decree 85, no. 5). To this must be added the circumstance that, when the Chapter proceeds in a Chapter manner, it is represented by the hebdomadary Canon and two assistants, who have always appeared publicly wearing the *pluvialis*. Furthermore, the Ordinary of Lucca, in a letter to the Sacred Congregation on June 15, 1900, wrote: "The Chapter cannot be deprived of the use of the *pluviale* which it has always worn and in every procession, preceded by the Chapter's cross. The Chapter function would be lacking the greatest pomp and solemnity required by the family of the deceased, and the opposite use would cause great offense throughout the city." It is not the case that the Canon should proceed with the *pluvialis*, if he has already used it since 1891; this was done out of mere tolerance on the part of the Chapter, to avoid public scandal, the

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advocate claims.

[*Latin ed. p. 595*]

GALTELLINO, REN. 595. Finally, concerning the question: "Whether the Episcopal ruling of June 2, 1900, should be confirmed or rejected in this case," the advocate argues that the ruling should be confirmed. For in it, only this is established concerning our matter: that the Rectors of the aforementioned churches, that is, the filial or, more precisely, minor churches, are free to perform purely sacerdotal functions therein and to receive the corresponding remuneration. This, indeed, does not seem to be able to be called into question in any way, or even in the slightest degree; for it is most certainly established from the cited documents that the aforementioned Rectors of the churches, even when the Chapter was exercising both joint and habitual care of souls, freely celebrated all purely sacerdotal functions and received the corresponding remuneration, without the Chapter claiming any right in these matters. But now, the Canon Pastor has no more rights in these churches and concerning their Rectors than the Chapter previously had. Furthermore, the advocate notes that the churches in question cannot properly be called filial churches: "There is no church in the entire Diocese that can truly be called a filial church." Hence, with regard to the purely sacerdotal functions celebrated in these churches, and with regard to the corresponding remuneration received by their Rectors, the Pastor cannot claim any interference, nor any right whatsoever; rather, it pertains solely to the Bishop, both concerning the election of the Rectors and concerning all ordinations in these churches. The advocate for the pastor has presented nothing new. With these observations, the following questions have been proposed for consideration: I. Is the Canon Pastor due, either from the Chapter or from the Bishop, compensation for damages or any other compensation for the prohibition made to him of celebrating functions, or for the loss of income?

[*Latin ed. p. 596*]

596 From the deliberations of the Sacred Congregation, illuminated by the teachings of the Council and having considered the authority thereof, and having received the petition of the parish priest dated April 13, 1897, in the following cases: I. Whether the parish priest is obligated to restore the emoluments which, in case II, he owes to the canonical priest, concerning those which the Chapter has received up to now, in case III. Whether it is permissible or not permissible to adhere to or to depart from the decisions concerning question 4, in case IV. Whether the right to the *pluvialis* [a perquisite or fee] pertains to the parish priest for the funerals of his parishioners, in case V. Whether the Episcopal judgment of June 2, 1900, should be confirmed or annulled.

RESOLUTION. The Sacred Congregation, after deliberation on Decem-

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ber 15, 1900, decided to respond as follows: Regarding I and II: The parish priest should acquiesce and nothing more. Regarding III: It is permissible, according to the manner prescribed, to depart from the previous decisions. The manner is that, in addition to the virile portion, the canonical priest is owed emoluments derived from both ritual and non-ritual sources, and so forth. Regarding IV: Affirmative, and nothing more. Regarding V: The decree is not to be sustained.

NULLITY OF MARRIAGE IN SAINT-CLAUDE. January 26, 1901. Session 24, Chapter 4, concerning the validity of marriage.

COMPENDIUM OF THE FACTS. On April 29, 1873, in the town commonly called Champvans, in the diocese of Saint-Claude, Alice P., then seventeen years of age, validly entered into marriage with Albert, then residing in Arbois, before the Imperial Substitute. The spouses lived together conjugally for approximately nineteen years and had three children, until discord and quarrels arose between them, and the marital union was never restored. After several years, Alice, according to her own account, was informed by a certain priest that—

[*Latin ed. p. 597*]

In Saint-Claude, concerned with the validity of a marriage, Alice sent a petition to the Curia of Saint-Claude, requesting that this marriage be declared null and void, based on two grounds: first, due to the impediment of affinity of the first degree, owing to the improper relations that Albert had with the mother of the petitioner before the marriage; and second, due to a lack of consent, since Alice was forced by her mother to enter into this marriage against her will. "It is supremely painful," the petitioner testifies in her petition, "for a daughter to accuse her mother; but I cannot refrain from doing so for the defense of my rights." She recounts: "Barely two years had passed since that death, when Monsieur Albert, a deputy prosecutor in Arbois, began to visit my mother, which, at first, were rare, as is usually the case in such circumstances, but then became more frequent, even daily, and lasted so long that Monsieur Albert spent almost the entire night with Madame P., to the great scandal of the entire region. And although both young women had retained their simplicity and ignorance of evil, due to the education they had received, this was not the case." Indeed, according to the petitioner, when the news of these improper relations became known throughout the city, the mother, in order to mitigate her own shame and at the same time to promote this wicked custom, forced her daughter, Alice, to marry Albert; which she, in truth, obtained, not without the girl's resistance. Therefore, the Curia of Saint-Claude instituted a process, first hearing the petitioner and the defendant, who affirmed the validity of the marriage, as well as questioning numerous witnesses presented by both sides; but when the petitioner insisted that the case should only be considered regarding the impediment of affinity, the delegated judge, on October

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29th, rendered a judgment favorable to the petitioner: "Having examined and considered the testimonies presented by the petitioner in the case of D. Alice and the defendant Albert,

[*Latin ed. p. 598*]

598 Affirming this from the Sacred Council, he denies that the marriage itself was invalid due to a diriment impediment of illicit affinity arising in the first degree of the direct line between the spouses, prior to their marriage, stemming from the union of the bridegroom with the mother of the bride; "Since it is legitimately proven, by the testimony of eyewitnesses, and by public reputation, as well as by a confession, albeit incomplete, that Ludovica, for three years continuously, in the innermost chamber of her house in Arboria, with the door closed, and late in the evening, with her family and female servants carefully removed, received frequent visits from Albert, and furthermore, shared meals with him on several occasions, and made trips together, now here and now there; "Since, from all the circumstances of this frequent, prolonged, and intimate familiarity, it is presumed, without full certainty, that carnal intercourse occurred between the aforementioned individuals; and this presumption arises: either from the disturbed and almost desperate feelings of mind that were evident in Ludovica at that time, which could only be explained by a latent passion, when she gave her daughter in marriage to Albert and moved her to the city of Nevers; or from the haste with which she remained with him, more frequently and for a longer time than was customary in the neighborhood; or from the large sum of money which she was forced to pay to Albert in a judicial proceeding; "Since, if the various indications of an illicit union observed by the servants of the house are overlooked, it must be noted that of the utmost importance is the fact that in these relations, the use of marital intercourse was fully consummated on her part, as the very accomplice Ludovica openly confessed, first in a letter sent to Marpot, the Bishop of St. Claudius, recently deceased, and then from her own mouth before our tribunal; and although she stated that she could not, after so many years, remember and assert how Albert behaved with her in that act, nevertheless, the intercourse is to be considered as having been consummated, unless the contrary is proven, as in this case; "For these reasons, after considering the briefs and observations of both advocates and the defender of the marriage, I subscribe.

[*Latin ed. p. 599*]

In Saint-Claude, on the 5th of September, the delegated judge, in this cause, pronounces and decrees that there exists an affinity of the first degree in the direct line between the spouses, arising before their marriage from an illicit union of the groom with the bride's mother, and that, since no dispensation was granted for this impediment, the marriage contracted

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in the parish of Champvans on the 20th of April of the year 1873 between Mr. Albert and Miss Alice was invalid.

Against this judgment, Albert, the defendant, lodged an appeal before the Archdiocesan Court of Lyons; which, on the 7th of April, 1900, reformed the judgment of Saint-Claude, and delivered the following judgment: "Having considered the text of Title XIII of Book IV of the Decretals, by which the impediment of affinity, arising from an illicit union, invalidates marriage, provided that it is proven; having carefully considered all and each of the instruments of the first instance proceedings, in which Albert and Alice declared that nothing further needed to be added; having also heard the observations of the defender of the marital bond; 'Having considered that, in order to declare the marriage already contracted null and void due to the impediment of affinity, this impediment must be founded, not on mere presumption, but either on public and notorious facts, or on evidence provided by suitable witnesses (Lib. IV Decret, tit. XIII, cap. S); and that, to affirm this, the confession of the spouses and the rumors of the neighborhood are not sufficient (ibid. cap. 5); 'Having considered that the marriage between Albert and Alice was contracted before the Church, and that this was done without any objection, that is, for almost twenty years; and that, moreover, three children were born within that time; 'Having considered that the claim and allegations of the plaintiff, Alice, give rise to legitimate suspicion, since she, before the judgment of the Church, requested and obtained a civil divorce, and afterwards contracted a civil marriage with Laurent Philibert; 'Having considered that, due to the excessive familiarity that appears to have existed between Albert and Ludovica, before the marriage in question, it is not certainly proven that a carnal union followed."

[*Latin ed. p. 600*]

600 FROM THE COMPLETE proceedings of the Sacred Council, which had been established to determine the case concerning a nullifying impediment: provided that this carnal union is not certainly proven, neither by the testimonies of witnesses, some of which are obscure and others suggest collusion; nor by public opinion, which cannot be considered sufficient proof; nor by the confession of the actress herself, whose testimony, besides lacking constant agreement with herself and precision regarding her relationship with Albert, lacks legal validity, according to the axiom: "No one alleging his own wickedness should be heard." "We declare and pronounce, with the reformed sentence of the Episcopal Court of Saint-Claude, that the marriage was not entered into with a nullifying impediment of the first degree of affinity in a direct line, arising from an illicit union."

SYNOPTIC DISCUSSION: DEFENSE OF THE WOMAN. The actress's defender divides her argument into two main points. In the first, she argues in favor of upholding the judgment of the court of Saint-Claude regarding

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the nullity of the marriage due to the existence of a nullifying impediment of illicit affinity. In the second, she asserts that the nullity of the same marriage arises from a lack of freedom, or perfect consent, on the part of the bride.

Addressing the first point, she states that it is well known in law that an illicitly completed union gives rise to a nullifying impediment of affinity, extending up to the second degree. - Council of Trent, Session XXIV, chapter 4, on the Reform of Matrimony. - Reiffenstuel, book 4, Decretals, title 14, § 2, n. 47. - Sánchez, volume 7, dispute 64, n. 8.

Furthermore, she argues that in this case, it has been established that Albert had an illicit carnal relationship, and indeed for three years prior to the marriage, with the bride's mother: 1st, from the threefold sworn testimony of the bride herself; 2nd, from the partially confessed testimony of the bridegroom himself; 3rd, from the sworn and extrajudicial confession of the mother of the same bride; 4th, from witnesses, excluding those older than herself; 5th, from public opinion. Indeed, the actress, questioned judicially, responded under oath: "Two years had scarcely passed..."

[*Latin ed. p. 601*]

From Saint-Claude, 601, since the death of my father (the aforementioned Matron), when Mr. Albert, who replaced the former procurator in Arbois, began to visit my mother, which, as is customary in such cases, initially were infrequent, but then became more frequent, even daily, and extended to the point that Mr. Albert spent almost the entire night with Madame, to the great scandal of the entire region. Twice, finding myself in my room in the evening, waiting for Mr. Albert, who passed through that room, to leave, I heard, through the partition, the movement of the bed opposite that partition, and various noises that were very significant to me, although not so at the time (the sounds of muffled voices). Once, after Mr. Albert had just escorted her out, I saw her in a state of undress, which proved that she had been undressed beforehand. Another time, upon entering the room, I noticed that the bed had been slept in, and, touching it, that it was warm; and I saw on the sheet a stain that I did not understand at the time. The advocate states that the testimony of the bride must be considered very important, firstly because she, who had always been at home, could know the circumstances of her mother's actions; secondly, because her deposition agrees in every way with the confession of the mother herself and of other witnesses; and finally, because one cannot presume that a daughter would wish to pursue her own mother with calumnies; as she herself expressly declared: "It is exceedingly painful for a daughter to accuse her mother; but I cannot prevent myself from doing so for the defense of my rights." If it were objected that the daughter is not fit to testify against her own mother, the advocate replies, citing *De probat, conciliis*, 1359, n. 1: "Witnesses who are otherwise unfit are

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admitted in matters that are difficult to prove, such as adultery, theft, and the like, in which, as a rule, no witnesses are present, except perhaps women and domestic servants." The advocate also supports this with the indirect confession of the aforementioned person.

[*Latin ed. p. 602*]

602 From the testimony of the witness, who states: "Thus, I entered into relations with the family P.... After the events, as I have said, the relations indeed became more frequent... It was in this bedroom that she received visitors. Thus, yes, I was received in this bedroom. When I had become more familiar, was I received there in the summer as well? It is quite possible. However, I affirm that if the room was locked, I did not know it... I was received after dinner, that is, at the hours indicated in the question (from seven to eight o'clock in the evening until ten o'clock, and even until midnight), but I do not believe I remained there until midnight." Therefore, the defender argues, it is clearly evident from the witness's words that the man frequented the home of Mrs. P., and that he remained alone with her in her bedroom, from the seventh or eighth hour of the evening until at least ten o'clock in Murten. And if he denies the other things, the orator argues, then no credence should be given to him, both because almost all the witnesses testify against him, and because he has perjured himself before the Tribunal. The sworn testimony of the orator's own mother corroborates this, who frankly confesses: "I acknowledge that I admitted, in a letter addressed to Mr. de St. Claude, that before the marriage of my daughter with Mr. Albert, I had relations with him such that my daughter could not marry him. In these circumstances, I behaved as a woman is accustomed to behave with her husband." And she continues: "He had taken such possession of my entire will, that he broke all my hesitations and scruples." The same is evident from the testimonies of the witnesses. The defender states that these testimonies corroborate other witnesses, who speak of the scandalous relationship between Albert and the orator's mother. Therefore, from the testimonies presented, it is impossible to doubt, the defender affirms. Since all the witnesses are sworn, and are beyond any exception. Many, who lived in the same house, and, as they saw, reported;

[*Latin ed. p. 603*]

SAINT-CLAUDE. Six hundred and three others testified, based on hearsay and the public reputation of the place, a reputation which even reached Paris; others are [priests, or even religious men]. Therefore, this is consistent with that legal provision, Book IV, Title XIII, Chapter III: "Unless this is public and notorious, or is proven with suitable witnesses, etc." After these statements, the advocate presents the theory from the *Ala Foro Criminale*, Volume 7, Class 2, number 58, which teaches: "that in cases of carnal crimes, which abhor the light and are therefore committed

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secretly, circumstantial evidence, presumptions, and conjectures have place and value, a rule established and repeated by the Doctors Farinacio and Zacchia, and affirmed by the Rota in the case of the alleged marriage of Cdlagarita, February 11, 1647, before Meltio, number 10." And the advocate affirms that there are serious presumptions in this case, since not only once, but a hundred times, and even thousands of times, over a period of three years, the actress's mother and Mr. Albert were alone together for many hours at night. Having established the nullity of the marriage, he says it is almost unnecessary to prove it from another point, namely, from a lack of freedom; on this matter, the actress has already testified. Furthermore, the defender does not consider it superfluous, at least for the sake of completeness, to say something even about this argument. Indeed, the marriage was not entered into freely by Alice, but against her own inclination, namely, in order to please her mother, who hoped in this way to conceal her shameful deeds and to continue in her wicked habits. The actress states: "One day, after three years and more of scandalous relations between Mr. Albert and my mother, she suddenly declared to me that Mr. Albert was asking me to marry him, and that this marriage must take place, in spite of everything, and as soon as possible. Such a proposal inspired in me extreme repugnance, and provoked in me a profound disgust, and I refused it outright. This refusal angered my mother, and a struggle ensued which lasted more than six months." Therefore, based on the testimonies presented, the defender concludes that the actress did not enter into this marriage freely, but was coerced.

[*Latin ed. p. 604*]

604 FROM THE CHURCH LATIN MCP

With these points established, the advocate, recalling the confession of the man, together with the testimonies of his witnesses, asserts that the testimonies of the women deserve no credence. And first of all, he presents the judgment of the most distinguished witnesses, who were questioned about the man. Furthermore, the advocate adds that the testimony of the man must be considered worthless, because he is suspected and narrates things that are not credible. Nor does the advocate affirm that the testimonies of the witnesses presented by Mr. Albert should be held in high regard. For, 1st, almost all of them are relatives of Mr. Albert. — 2nd, they all testified unanimously that they had never been in the city of Arborea, except on the occasion of the celebration of the marriage, and therefore they could not have known anything in that place, at that time, about the improper conduct of the same Albert with Lady P. — 3rd, they all clearly and manifestly testified that they had received money from the same Albert. With these points established, the advocate continues to refute the judgment of the Court of Lyons; and regarding the first point, he says, "It

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must be noted" that the confession of spouses and the rumors of neighbors are not sufficient without the mention of witnesses. For, the defender points out, in this case, there are sworn testimonies, which unanimously proclaim the improper conduct between Lady P. and Albert. Moreover, there was public notoriety not only in the city of Arborea, in the place called Champvans, but also in the Palace of Justice in Paris, where Mr. Albert was called "le travailleur de la mère, l'Amiral." Therefore, the President of the Tribunal and the Arborean Syndic ordered Mr. Albert to celebrate his marriage elsewhere, so that no scandal would arise among the people; and the colleagues of the Tribunal refused to assist at Mr. Albert's marriage. Regarding the second point, "It must be noted" that for almost 20 years, there was no complaint, and that within that time, three children were born; the defender responds that this does not concern the impediments in which ratification can be obtained by subsequent mutual consent; but the question is of the impediment of affinity, for which an absolute dispensation is required.

[*Latin ed. p. 605*]

In Saint-Claude, the argument concerning marriage is always fundamentally flawed. Furthermore, the lawyer argues that "Attento" lacks any solid foundation. Indeed, by the strength of French civil law from the year 1884, it is permissible to request and obtain a divorce from a civil marriage contract from the magistrates. However, whether the plaintiff knew or not about the decrees of the Holy Office from the years 1885 and 1886, she will see before God. Moreover, this reason and other reasons for a subsequent civil marriage in no way affect the substance of the impediment about which we are speaking. Regarding the fourth point, "Attento," namely that the complete carnal act occurred, it cannot be proven by visible evidence, because, as the door is closed, this act is concealed; the lawyer notes that, from all the presented circumstances, it is so evident that, unless someone holds an opinion according to their own will, they cannot deny it. Nor should it be said that the mother's confession lacks legal value, because faith is not to be given to one who reveals their own wickedness. For, the lawyer responds, when in matrimonial cases an oath is given to the accused to speak the truth, what the accused asserts in virtue of the oath will be considered as the truth. — Even more so in this case, in which we are dealing with a mother, 74 years of age, who, repentant of her actions and desiring to repair the damages caused to her daughter, and having confessed, with no small embarrassment, her conduct with Mr. Albert, saying: "I have reflected for a long time, and with hope, that God will take into account my difficult undertaking... God, who hears me, supports me in this cruel undertaking, and I am confident that I will be rewarded for it." Therefore, since in the matter of the impediment of affinity due to an illicit union, or the lack of consent from one of the parties, there is no doubt, it spontaneously follows,

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the lawyer concludes, that the marriage is null, and therefore the judgment of the Court of Saint-Claude should be confirmed.

OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE BOND.

From the opposite side, the defender of the marriage bond, after recounting the facts, from the very beginning points out the actions that the plaintiff now presents in order to obtain a dissolution.

[*Latin ed. p. 606*]

606 From the records of the Sacred Congregation, it appears that the marriage was arranged at a suspicious time, namely, after the dissolution of the conjugal life, when the adulterous affairs of Albert's wife with Baron Cerise had become known to Albert. And first of all, the testimonies of the most distinguished witnesses attest to the honor and virtue of the man, elevating them to the heavens. Indeed, Henry Pouchin, "former magistrate," affirms under oath: "I have known Mr. Albert since the age of ten. I have, so to speak, followed him step by step throughout his life... I can say that he was raised very Christianly; in particular, I lived near him in Paris while we were both studying law. His family was in the Nièvre; he could have indulged in pleasures like many young men. On the contrary, he was a serious worker; and he was admitted as a Doctor of Law at the age of twenty-two." And Peter Finel, the assistant pastor, who was present in the home of the spouses Albert and Alice as a tutor for their children, testified: "Mr. Albert has sincere religious convictions. He was raised by the Jesuits, and it was he who insisted that his son have a priest as a tutor. I cannot say the same of Madame: her sentiments were not religious; she rarely went to Mass." With these points established, the speaker notes that Alice willingly accepted Albert, and that the spouses fostered a peaceful conjugal life for many years. Indeed, Victor Crinquand, who received the consent of the spouses for the marriage as Alice's own pastor, testifies: "On the day of the marriage, she pronounced the words of the contract as any other would at that moment; I noticed nothing that would suggest that she lacked freedom or sincerity." And Henry Pouchin, a witness present at the marriage, swears: "I observed no incident either at the town hall or at the church... It seemed to me that she welcomed Mr. Albert as one welcomes a fiancé. Nothing in her demeanor suggested that she was entering into this union against her will." The same is reported by other witnesses, and by the priest Peter Finel.

[*Latin ed. p. 607*]

In Saint-Claude, the 607th parish priest, who was the marital companion from October 1884 to October 1886, serving as the children's tutor, states: "I never noticed anything abnormal during the two years I spent in the V. family. They seemed to get along well; their behavior was proper. Before me,

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they lived in good harmony. Mrs. Alice appeared content and happy." And Father Peter Finel reports: "Her sentiments were not religious; she rarely attended Mass." Therefore, the defender of the marriage is not surprised that a woman lacking heavenly graces would loosen the reins of licentious desire. "Suddenly," says Albert, "in October 1892 (almost exactly twenty years after the marriage), I received an anonymous letter whose precise details forced me to reflect." What Albert discovered about his wife, he expounds extensively to the civil magistrate in twenty-four articles, of which the sixteenth reads: "The lady Alice has, since 1887, maintained a secret correspondence with Mr. O., containing erotic phrases such as these: — 'I still see you in that large bed where I first possessed you, where we wove together bonds that will never be destroyed' — or 'I cover your beautiful, adored body with kisses, and I deposit on your cherished lips my most passionate kisses' — or again: — 'O my beloved, you are my life; you alone taught me what love is. I lay with you for three nights, still wearing my chemise, and already your scent is fading' — or again: — 'You, who for six years have not had a moment that was not devoted to me, yes, you are truly my legitimate wife.'" As she did before the Most Reverend Fathers, so too before the lay magistrate, the actress denounced the alleged crimes of Albert against Ludovica, his mother, who was also an actress; but the court easily recognized the fabricated tales. - There: - "Considering that, through new conclusions served on January 24, 1894, the lady Alice has again articulated eighteen other facts against her husband..."

[*Latin ed. p. 608*]

608 FROM THE HOLY GENERAL COUNCIL, it is established that there were, before and after her marriage, culpable relations between him and the lady P..., mother of the plaintiff. Whereas this imputation is already formally refuted by all the circumstances of the case and by the documents produced, especially by the correspondence exchanged before the marriage and during the engagement between Albert and the lady P., and after the marriage between the spouses and the plaintiff and her mother. It is not alleged that the plaintiff's mother, in order to support her daughter, confirmed facts that incriminated herself; but such testimony is rejected by the defendant as suspicious. Indeed, the plaintiff's mother, questioned by the judge on January 19, 1898, as to whether she wished her daughter to be absolved from the marriage bond by which she is bound to Albert, answered unequivocally: "My God, yes." Concerning this matter, on March 26, 1896, the plaintiff's mother wrote to Albert, who was accusing her of adultery before the civil court, without ambiguity: "Please, I beg you, withdraw your appeal immediately, and if it is too late, then please desist. If you believe that you do not have to consent to my request, I warn you that I will do everything without exception so that the new judgment will not change anything about the judgment of the court... I will take Alice

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100 leagues away! Then you will never see your grandchildren again!!" On April 12, 1896, she wrote to him: "If you continue with the (judgment), I will be against you this time, entirely, and your person will not emerge honorably from the debates." And on October 15, 1896, she burst forth with: "If you do not desist from your appeal to the Court of Cassation, I will tell the truth: I have had intimate relations with you, since the year 1877, after your marriage. Such a declaration is made in a hidden letter, which I am sending to my lawyer, who will, according to my orders, send it to whomever is entitled, if you do not desist." Therefore, the defendant continues, Albert argued in court that she should be condemned for the crime of adultery: to prevent Albert from being judged, the mother denounced him to the judge with Albert.

[*Latin ed. p. 609*]

At Saint-Claude, the matter had already been brought before the court in the year 609, and the mother swore that she had been known to Albert "after the marriage." The actress, unable to marry the Baron de Cerise unless she proved that her mother had been known by Albert before the marriage of Alice and Albert, approached the judge, saying: "I claim that this marriage was null because of relations that my mother had with Mr. Albert prior to the marriage." Immediately, the mother testified: "Before my daughter's marriage to Mr. Albert, I had relations with him such that my daughter could not marry him." But, according to the advocate, all of this was invented only at a suspicious time. Indeed, Maria Pouchin, under oath, affirms: "I had never heard of these things until the time when Madame Pouchin, my sister-in-law, came to speak to me about them at the beginning of the winter of 1893. It was at the time of the final quarrel, when Madame Alice was seeking reasons to separate. She first told my sister-in-law that she had just discovered that there had been relations between Mr. Albert and her mother before the marriage. Furthermore, she had repeated these assertions to several members of our family, even distant ones. Later, she said that these relations had taken place not only before, but even during the marriage; and later still, without me knowing from whom, she claimed that they were still continuing even at the time she was speaking... To the same question, Maria Godot de Mouroy, under oath, replied: "I never heard of such relations except when Madame Alice considered leaving Mr. Albert, her husband, and obtaining a divorce. It was not she herself who spoke to me about it, but I learned of it through rumors, even from the world at that time... I also remember that Madame P. herself, alluding to these rumors, was weeping and lamenting at my home, and when we pointed out to her: why endure such remarks? she told us: My daughter

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tells me not to..."

[*Latin ed. p. 610*]

640 FROM the proceedings of the Council, it is stated that she [Alice] is concerned that it is solely for the needs of her cause that she has made such assertions. Albert's sister, Alberti, affirms under oath: "I also add that one day I remarked to Madame [P. mother] why she tolerated her daughter daring to launch against her the abominable accusations that are known? Oh! she said to me, Alice always tells me not to pay attention to it, that it is necessary for her to say these things for the sake of her cause." Furthermore, the defender of the Sacrament continues, stating that Albert, to whom his wife never imputed such affections with another woman, had, before she was even accused of adultery, been accused of having affections with the elderly Ludovica, his mother-in-law; a woman whom he disdains and despises. Moreover, Ludovica wrote to Albert on March 26, 1896: "Do not forget that several times you struck me, threw me to the ground on the second floor in a room in Champvans! I have witnesses." The aforementioned assistant pastor, Petrus Finel, who remained in the home of the couple for two years as a tutor, testifies: "Mr. Albert was cold towards his mother-in-law. She wanted to interfere with the education of the child, and Mr. Albert did not see this favorably." Maria Godot de Mauroy reports: "Sometimes, Madame P. mother, when she spoke of Mr. Albert's somewhat lively character, would add: 'My God! He makes my daughter so happy that I forgive him everything.'" Antonia V.: "Madame P. herself sometimes said, complaining that he [Albert] was brusque towards her: 'Oh! He is so good for my daughter that it is all the same to me if he is grumpy with me.'" Therefore, the defender continues, rightly and deservedly, all those witnesses who know Albert intimately and who have lived with the couple for twenty years, are greatly indignant at the accusations made against the aforementioned man by Alice. Indeed, Maria Godot de Mauroy exclaims: "These are lies that Madame Alice has..."

[*Latin ed. p. 611*]

At Saint-Claude, for 611 days, she proceeded according to the needs of the cause, in order to bring about the marriage with her lover, the Baron Cerise. Clementina, the mother of Albert, stated: "To assert the existence of these scandalous relations is to weave an abominable calumny. My son has always been what he ought to be, deserving the respect and esteem of all." Henry Pouch then declared: "I vehemently protest against these accusations brought against Monsieur Albert. I have known him since the age of ten. I have followed him, so to speak, step by step in life." Furthermore, a man, questioned by the judge, stated: "Do you solemnly affirm before God that you have had no relations with your mother-in-law before the marriage?" Albert, with solemn words, responded, "raising his hand be-

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fore God: "I swear most absolutely that I have never had any relations with my mother-in-law, neither before nor after the marriage, and that this is a vile calumny. It is purely a machination on the part of these two unhappy individuals in order to marry before the law and before God." Furthermore, the defender argued: "Here, we are dealing with proving a crime, and with invalidating a marriage already contracted, therefore the proofs must be apodictic and conclusive. Witnesses must be numerous, exceeding any exception, not inferior, impartial; witnesses based on credulity or hearsay are not admitted, but only those with personal knowledge; it is necessary that they testify about facts that they themselves have seen with their own eyes, or heard with their own ears. If witnesses suffer from any exception, it is necessary that the deficiency in quality be compensated by an excess in number. If the union itself cannot be directly proven, it is required that acts of union closely related to the union be proven, having a more or less necessary connection with the union, and that these acts be numerous and fully proven individually. But in this case, according to the speaker, among all the witnesses presented by the plaintiff, there is not one who has, at least, seen Albert embracing Ludovica, or giving her a kiss, or directing words to her that are less than honorable. None of them..."

[*Latin ed. p. 612*]

612 From the Council documents, a weighty testimony, free from the influence of partiality: Maria Chiovenda, a teacher of children, Henrica Brides, and Maria C u sin, servants, and Clementina Chevassu, who, like Maria Chiovenda, held the position of teacher in the house of P.: all these. Indeed, the defender continues, Maria Chiovenda most of all recounts events which she herself neither saw nor personally knew: and she proceeds to the point of boldly declaring the opinion of herself and others: "Among the servants," she says, "we thought that these relationships were not honest." "We thought" is subjective, not objective. Maria adds: "I also believe I remember that in Arbois, these relationships were very much mocked publicly." But the orator replies that the inhabitants of Albert, as is evident, could not have known the conversations between Albert and Ludovica better than those who served Ludovica. Therefore, he says, all the familiarity of Albert with the actress's mother, Ludovica, consists in this, in where it begins and where it ends: "The visits became more frequent with time," says the teacher, "dating from 1871 or 1872, Mrs. P. regularly invited Mr. Albert to supper, every eight or fifteen days." The same is testified to by Maria Cusin, a chambermaid, who herself admits: "Albert came to supper with Mrs. P. every eight or fifteen days." The orator says that Maria Cusin's testimony should not be given credence when she states: "Mr. Albert not only came to supper with Mrs. P. every eight or fifteen days, but I do not remember well; but, on average, three or four times a week he visited Mrs. P. in the evening, around seven or eight

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o'clock, and he locked himself in her room with her until 10, 11 o'clock, and sometimes until midnight." These statements, according to the orator, are completely at odds with what Maria Chiovenda recounts, who, as has been said, testifies: "Dating from 1871 or 1872, Mrs. P. regularly invited Mr. Albert to supper every eight or fifteen days; she then took him, after supper, to her bedroom, where they locked themselves in—"

[*Latin ed. p. 613*]

Saint-Claude, 613, seems to indicate that Alice was growing impatient at not being able to go to bed. Therefore, if such frequent visits had occurred, the governess, who had personally witnessed the inconveniences of these visits along with the pupil, would have retained them in her memory better than the other servants. Consequently, Mary Chiovenda would not have been content to state: "After supper, every eight or fifteen days," but rather would have said: "three or four times a week"; indeed, she would have stated plainly, as did Henrietta Brides, "every evening." However, the defender asks, when did the frequent visits of Albert begin, namely, "every eight or fifteen days," and was Mary Cusin present in the house of Madame P.? Certainly, Mary Chiovenda stated: "The visits became more frequent over time; from 1871 or 1872, Madame P. regularly invited Mr. Albert to supper every eight or fifteen days." However, Mary Cusin affirms: "I was a maid in the service of Madame P. from April 25, 1871, until December 8 or 9 of the same year." Nor should the deposition of Mary Chevassu be held in greater esteem. For she states to the judge: "Regarding the matter of relationships, obviously, I did not witness anything directly myself, but I remember very well that during the time of the Prussian occupation, when I was responsible for supervising the children, Madame P. ordered me not to remain in the château when Mr. Albert came, because, she said, he had... Furthermore, in order that he would not be obliged to enter through the front of the château, Madame P. had given him a key to the service entrance, which allowed him to enter whenever he wished without being seen." Indeed, the defender notes, she also testifies: "I had no contact with Mr. Albert and Madame Alice except for those of a governess for about three years in the service of Madame P., when Alice was about nine to twelve years old." Now, listen to Mary Chiovenda, who swears: "I knew them because I was the governess of the two Mademoiselles P. from..."

[*Latin ed. p. 614*]

614 FROM "S. C. CONCILII, July 1866 to November 1874." From these things it is clear that Mary Chevassu departed from the house of Father [P.] in the year 1866. For it is scarcely believable that in the house of Father [P.], where one and the same servant, Henrica Brides (if these women ever speak the truth), "performed the duties of chambermaid, cook, and also governess of the children," two women could have simultaneously held the

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office of governess. According to the testimony of the actress, who stated: "Another time, as she (the mother) came to say good evening, I noticed traces of teeth on her chest, which she claimed were scratches, at the time, but later, noticing the same mark on myself, she said to me one day, three or four months after my marriage: 'I know that mark.' Another time, entering the bedroom, I noticed that the bed was unmade, and, touching it, it was warm; and I saw on the sheet a stain which I did not understand at that moment." The defender of the marriage responds, asserting above all that Alice was completely unaware of the less than honorable relations of Albert with Ludovica. Certainly, Father Ireneus Vallée of the Order of Preachers, a witness most devoted to the opposing side, under oath, affirms: "What I remember well is that she (Alice) expressly told me that when she was married, she was in the most absolute ignorance of these relations, and that she did not become aware of them until several years after her marriage." Truly, a young girl, who suspects no evil, especially not having experience in the conjugal bed, nor paying attention to those slight and remote indications of crime, would not fix them in her mind, and even if she had committed them to memory, Alice could not have asserted to Father Ireneus Vallée "that she was in the most absolute ignorance of these relations and that she did not become aware of them until several years after her marriage." Finally, speaking of the rumors of the people, the defender of the marriage points out that Pope Innocent III, in chapter XXIV concerning accusations, distinctly forbids that anyone be bought.

[*Latin ed. p. 615*]

Saint-Claude, 615, we are informed by those who are malicious and slanderous. Indeed, the speaker states that this rumor could not have arisen except from malicious and slanderous individuals: 1st, because no one has ever seen or heard Albert or Louise act, gesture, or speak in a dishonorable manner; which is always the case in such calumnies and suspicions; 2nd, because the P. family was disliked by their neighbors; 3rd, because Louise "was coquettish," and the inhabitants of Arbouse were unaware of the virtues by which Albert, a foreigner, excelled; 4th, because they were unaware of the reason for Albert's frequent visits to the P. household, and those who suspected something were displeased that Alice, richly endowed with a dowry, was marrying a foreigner; hence, 5th, anger arose against Albert himself, as if he were an usurper of what was rightfully theirs; therefore, 6th, it is not surprising that they would say, "that he had courted the mother to obtain the daughter," and other similar things. With these considerations in mind, the purpose was to determine whether the judgment of the Lyons court should be upheld or overturned in this case. RESOLUTION. The Holy Congregation, after deliberation on January 26, 1901, decided to respond: From the facts presented, it does not appear that the marriage is null. PAOENSIS, ECCLESIASTICAL

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BENEFICE. "On February 23, 1901. By summary petitions. In the chapter statutes of the Cathedral Church of Peace in Augsburg, in Hispania, completed in the year 1858, chapter III, "On Common Offices," it is written: "The canons shall also preach unassigned sermons on "the office," in such a manner and form, and in this holy..." COMPENDIUM OF THE FACTS.

[*Latin ed. p. 616*]

616 FROM THE HOLY CANONICAL COUNCIL, it was decreed that the Church should be put into practice. Concerning the interpretation of these words, a dispute arose between the Chapter and the Bishop, and the matter was brought before the Holy Canonical Council, which, on January 31, 1874, responded to the question: "Are the Canons of the Cathedral Church of Pacensis obligated to perform the office of preaching in this case?" with: "Affirmatively, in accordance with the statutes and practice." This decree of the Holy Congregation was observed until the year 1892, when, after a competition was announced for the vacant Lectoral Benefice, the Bishop, with the consent of the Chapter, imposed six new annual sermons on the Lectoral Benefice, which was already burdened with two, thereby exempting the other canons from the duty of preaching. After the competition, Thyrsus Lozano was elected to the Lectoral Benefice, who, when questioned by the Bishop, "whether he would accept the said benefice with all the offices and burdens imposed upon him in the convocatory edicts," answered affirmatively and bound himself by oath. After seven years, Lozano considered himself unjustly burdened by the obligation of those six sermons, and, having unsuccessfully requested absolution from the Chapter and the Bishop on November 3, 1899, he appealed to the Holy Congregation to obtain absolution. The Holy Congregation sent the petitioner's brief to the Bishop of Pacensis "for information, after hearing the Chapter," who reported the following. A SYNOPTIC ACCOUNT OF WHAT IS PRESENTED AGAINST THE CANONICAL THEOLOGIAN. "First of all, I must note that the aforementioned Lector, on November 3 of the last year, presented a petition to the Bishop and the Chapter, demanding absolution from the obligation of preaching six annual sermons imposed on the Lectoral Benefice of this Cathedral Church in the convocatory edicts. The Bishop and the Chapter, by unanimous consent, denied the requested grace, and the reasons for this denial are as follows: "In the convocatory letters for this Lectoral Benefice..."

[*Latin ed. p. 617*]

"The Bishop of PACENSIS and the Chapter unanimously agreed to impose, in addition to the exposition of Holy Scripture in the Seminary or another place designated by the Bishop, six annual sermons upon this Benefice, which had previously been burdened with two, and before that

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with four. After the literary exercises were completed, all the candidates were questioned as to whether they promised and pledged to faithfully and religiously fulfill the duties and offices of this Benefice as prescribed in the convocation notices: with one voice, they all answered affirmatively. After the election, the candidate elected to the Lecternship, who was himself the speaker, was again questioned before the canonical collation as to whether he would accept said Benefice with all the offices and burdens imposed upon him in the convocation notices, to which he answered affirmatively, and he bound himself with an oath. Then he came into possession of this Benefice, and from that time (year 1892) until today, no protestation has been made by the speaker, but on the contrary, he has fulfilled the burden of six sermons without any objection."

"The Bishop and Chapter, in imposing this burden upon the Lecternship, rightly availed themselves of their jurisdiction, in accordance with the law established in our Spanish nation by the concordat between the two powers, from which originates the present practice in Spain of imposing, in addition to the canonical duties, the obligation to preach a certain number of sermons, the number of which is specified in the convocation notices. In this nation, it is rare to find a Cathedral in which the canons do not have this burden of preaching, or some other heavier burden, in addition to that imposed by the Council. This universal practice is sanctioned by the Apostolic Nunciature and confirmed by various resolutions of the Sacred Congregation of the Council. Among others, it suffices to mention the decree of April 22, year 1882, concerning the canon of the Lecternship of Salmanticensis, who, being already very old, and moreover ill, and with outstanding merits both from the Church and from himself, had raised prayers to the Holy See, requesting the grace of being excused from four sermons, with which the Lecternship was burdened, in addition to the obligation of expounding the Holy Scriptures. The following question was proposed to the Sacred Congregation: 'Whether a Canon...'"

[*Latin ed. p. 618*]

618 Due to the infirmity of a Lector from the Salmanticensis diocese, he is prevented from fulfilling the obligation of delivering four sermons per year, which was imposed upon him by edicts and through a substitute, at his own expense, in the following case: "The Sacred Congregation responded: Affirmative." From this, it rightly follows that the Sacred Congregation, by declaring the Lector of Salmanticensis to have a firm obligation to fulfill the preaching duty imposed upon him by the Bishop and Chapter, has, by that very act, declared such an imposition to be valid and legitimate. "As is evident, the Lector of Salmanticensis was a very old man, suffering from illness, and full of merit. This Lector is a very young man, of sound health, and has already been excused by the Sacred Congregation from attending the choral service for the entire day that he reads, and his presence in the

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daily readings of the Holy Scriptures in the Seminary is not as precise and consistent as it should be for his office. These are the reasons that were considered by the Bishop and Chapter when denying the Lector the grace of exemption." Furthermore, the imposition of the burden of six sermons upon the Lectorate, which is the subject of this discussion, does not violate the Statutes of this Chapter of this Holy Church Cathedral, in which it is decreed that canons are obligated to deliver sermons not assigned to other canons by their office, an obligation that all canons of this Cathedral Chapter acknowledge and accept, fulfilling the resolution of the Sacred Congregation of January 31, of the year 1874, issued on the occasion of the following question proposed by this Chapter: "Do the canons of the Cathedral Church of Pacensis have an obligation to perform the duty of preaching in the following case?" The Sacred Congregation responded: Affirmative, in accordance with the Statutes and practice. "Finally, I will conclude this discussion by clearly stating my opinion in this case. I believe that the obligation of six sermons imposed by the Bishop and Chapter upon the Praebendae Lector is, in itself, an exercise of legitimate right, which, although it may, by accident, favor other canons, does not lose its conformity with the laws. The effect of this exercise cannot truly and realistically be called an exemption, as is asserted in the petitions, but should properly be called a diminution of the burden, inasmuch as in it..."

[*Latin ed. p. 619*]

PACENSIS 619: "Furthermore, the obligation to preach does not extend to other sermons not assigned by canon law, nor to those newly instituted."

WHAT A CANONICAL THEOLOGIAN DOES. The Canonical Theologian, on the other hand, observes the following. First, he invokes the well-known rule of law: "Ecclesiastical benefices are to be conferred without diminution." But certainly, the imposition of a new burden diminishes the benefice: "A diminution of a benefice can occur in four ways, namely, through the imposition of a new burden, through division, through dismemberment, through suppression" (Reiffenstuel, *ad tit. ut ben. Eccl. sine dim. conf.*, p. 1*, n. 2). This has been repeatedly held by the Sacred Congregation. (Pisauren, April 6, 1647, *lib. 18, decr.*, p. 231; Pisauren, May 17, 1653, *lib. 19, pag.* 243; Ariminen, May, *lib. 5, pag.* 288; Sabina, January, *pag.* 99; Sarnen, July 3, 1690, *lib. 40, pag.* 340; Ästen, February 14, 1699, *lib. 49, pag.* 57), and the Council of Trident has declared: "Reason demands that what is well established not be taken away by contrary ordinances. Therefore, when certain qualities are required, or certain burdens are imposed, by the erection or foundation of any benefice, or by other constitutions, no derogation shall be made to them in the collation of the benefice, or in any other disposition." (c. 5, sess. 24, *de ref.*). But it is objected by those who maintain that the Bishop can, "in urgent necessity and with a vacant benefice, impose an honest

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burden" (Santi, *prael. iuris can.*, ad h. tit., n. 4). To this, the Canonical Theologian responds, according to approved authors, that this opinion has no solid foundation. For the Pontiff, in chapter 11 *De praeb.*, to which this opinion is uniquely attributed, did not declare that a new burden had been legitimately imposed, but rather confirmed a burden, although imposed not legitimately, with Pontifical authority: "This letter (this opinion) does not approve; rather, it indicates the opposite. For the Pope here does not declare the order of the Praepositus and Chapter to be valid, but confirms it with a modification, as is evident - there - we confirm this institution to that extent. Therefore, the agreement and the burden imposed are not..."

[*Latin ed. p. 620*]

620 "It would have been replaced by the decrees of the General Council, had it not received the strength of apostolic confirmation; therefore, it was requested" (Fagnanus, *ad cap. II de Praeb.*, n. 1 et 2). Although the objection raised was to be proven, it did not necessarily follow that the burden was imposed upon the Canon theologian to sustain it, since there was no urgent necessity here; for the sermons, assigned to the Canon theologian, were to be preached by the other Canons, both by order of the statutes and by the force of custom confirmed by the Holy Council. However, as appears from the letters cited, the Bishop, believing that in Hispania it had become customary for Bishops, when affixing edicts concerning a canonry, to add certain concessions to their own benefices. But the Canon theologian believes that this custom is not legitimate; indeed, it cannot be invoked in this matter, even though it may seem legitimate. Experts in ecclesiastical law in Hispania openly proclaim that this custom is not legitimate, firstly because it contradicts the rule that ecclesiastical benefices are to be conferred without diminution; and secondly, because it is more clearly demonstrated, according to canon law, that the office of preaching is not well suited to be combined with the proper offices of the canonry, especially if one examines the laws agreed upon between the Church and the Kings of Hispania, by which the Bishop seeks to defend his practice. For, a decree promulgated in this way (on December 6, 1888) commanded that half of the canons in the cathedrals, (besides the canons in office) should be chosen by election, and it ordered that a special office should be assigned to each canon so chosen. The common interpretation was that two offices could not be imposed upon the same canon alternatively. This was not only taught by the common interpretation, but also by a decree made by the King, with the advice of his council, and confirmed by the Apostolic Nuncio. "Considering article 16 of the Royal decree concordat of December 6, 1888, Her Majesty the Queen Regent, in the name of her

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August Son, in agreement with the Most Reverend Nuncio..."

[*Latin ed. p. 621*]

The Apostolic See has resolved: that it should be made known that, in the future, various special offices should not be assigned separately to the same canonry (November 14, 1890). Therefore, to simple canons, who are elected by common vote, only one special office can be assigned. To canons, whom they call "of office," who already have a designated special office, a second special office cannot be assigned, according to the laws in force in Hispania. If this were permitted, the canon states, the practice invoked by the Bishop would be legitimate; however, this does not apply to the present case, nor does it protect the theologian. In truth, it is licitly assigned to canons "of office" to preach, when there is no one who is obligated by his own obligation to preach; and therefore, the expenses for the sermons are borne by the chapter, and are provided by external priests. Then, in order for the chapter to be spared expense, a new office is often assigned to the canons. This was the case in the Salmanticensi cause, which was brought before the Sacred Congregation of the Council. In that case, the canons were not obligated by statutes or any other law to preach. Hence, it came to pass that the office of preaching was added to vacant canonries. But, on the contrary, in the present case, there is already someone who is obligated by his own obligation to preach. There are canons to whom the chapter statutes, and custom, strengthened by the vote of the Sacred Congregation, have commanded that they not abstain from the office of preaching. The canon is also concerned by this other objection of the Bishop: that the theologian has accepted this office in a public election, and that he cannot now reject what he has accepted. To this, it was replied: although the theologian may have rightly accepted this office, such an office cannot be maintained if it is openly contrary to common law, or indeed to the sanction of Trent. But the theologian, perhaps without full knowledge, certainly did not freely accept this office. Perhaps without full knowledge: for it is not certain that the theologian knew, by custom and statutes, that the canons were obligated to preach, even under the command of the Sacred Congregation. Certainly not freely: for, in doing so, he was closing the way for himself to a benefice.

[*Latin ed. p. 622*]

622 From the Acts of the Holy General Council: The theologian could not refuse the assigned duty. Therefore, this falls under the purview of the theologian, as the Sacred Congregation of the Holy Office judged in a similar case previously, declaring that a beneficiary is not obligated by such a burden, when a new burden is established upon the collation of the benefice, not only having been accepted, but also having been sworn to be observed. "Antonina Riccia, John Stephen, and Garibald of Ourtius estab-

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lished a simple benefice or chaplaincy in the town of Villa Nova, under the title of Saint Mary of Graces, with the obligation of celebrating five Masses each week, and although no burden of personal residence was imposed on the rector in this foundation, it was nevertheless provided that the last holder of this chaplaincy, Peter Mary Garistianus, in the bulls issued in his favor by the Bishop, the following words are found: that the aforementioned is obligated to have his residence in the town of Villa Nova and to personally celebrate six Masses each week... this burden was also repeated in the oath he swore in execution of the bulls. The question posed is: Is the orator obligated to the burden of personal residence and of celebrating by himself? The answer is: No." (Astin, February 14, 1698, book 49, decree, cited in Pallottini, under the word "Benefice," concerning vacancies). Finally, these matters were observed ex officio. The case of Salmaticen, cited, does not seem to be relevant. For, besides the fact that the burden imposed on the Canon Theologus was not previously binding by the Bishop, all canons, according to the chapter statutes and practice, as stated; the Sacred Congregation of the Council did not inquire whether such a burden was legally imposed on the Canon Theologus, but rather, supposing that the Canon Theologus was indeed ill, whether he should fulfill the burden through a substitute and at his own expense, and the Sacred Congregation answered affirmatively. The Bishop appeals to the concordats, but if the letter or text of these conventions is examined, namely the concordat issued on March 16, 1851, along with another convention added on April 4, 1860, although the matter of benefices is discussed, nevertheless, regarding this faculty for Bishops...

[*Latin ed. p. 623*]

The case of PAOENSIS 623 appears to yield no definitive ruling, as Vincent La Fuente also believes in his treatise "Ecclesiastical Disciplines from the Sacred Council of Trent, as well as from the Spanish Synods and Conventions." Therefore, the imposition of a new burden that affects the beneficiary himself cannot, according to the most learned jurists, be decreed by the Bishop; but furthermore, it must be considered whether such a burden should be sustained to the extent that it affects the person of the beneficiary, and not the benefice itself. Indeed, the most common rule among jurists is that a burden which cannot be considered real becomes personal, affecting the persons of the contracting parties. For example, the revenues of churches cannot be alienated except with the approval of the Holy See; nevertheless, the Council of Trent, in Session 6, chapter 4, De ref., states that agreements or transactions made concerning them, without the necessary formalities, bind only their authors, and not their successors, or are personal, not real. And Fagnanus, in his commentary on chapter 5 De trans., states: "But a census, without the authority of the Bishop who governs the Church, cannot, under this pretext, extend beyond the life of the one who

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pays it," and he writes in note 2: "Note the peculiarity that a transaction initiated by the Prelate concerning the rights of the Church is valid to his own detriment and as long as he possesses the Church, even if the authority of his superior is not present, but it does not bind his successors, since it is merely personal." If this doctrine is applied to the collation of benefices, it follows that a new burden knowingly accepted by the beneficiary at the time of the collation, made by the Bishop, is a personal burden; thus teaches De Angelis, title Ut benef, eccles, sine diminutione conf., following the most common opinion of the Doctors, which Fagnanus explains extensively in his commentary on chapter 21 De praeb, who, after stating in note 28: "The most accepted opinion is that the Bishop can, by his ordinary right, impose a pension for life on a titular canon," in note 52, concerning the power of imposing burdens on benefices, even those that are vacant, he argues...

[*Latin ed. p. 624*]

624 FROM THE HOLY GENERAL COUNCIL it is stated... "either the rector of the benefice does not consent to the reservation of the pension, and the reservation is not valid..., or he consents, and therefore, although he may, for the sake of peace, obligate himself to pay the pension... nevertheless, he cannot obligate his successor." However, if the right is recognized to the Bishop to impose personal obligations, or those of a willing and consenting party, in such an imposition, no injustice is done to the beneficiary, who, moreover, consents to the obligation not freely, but only because he desires or needs to obtain the benefice. With these premises, the question was raised as to what should be answered in prayer. RESOLUTION: The Holy Congregation, after deliberation on February 23, 1901, decided to respond. Considering all things, the petitioner should be granted his request; and it should be written to the Bishop accordingly. FROM THE 8TH CONGREGATION OF BISHOPS AND REGULAR CANONS OF LECCE, CONCERNING PROPERTY RIGHTS, July 20, 1900. — By force of the Napoleonic law, the convent and the annexed church of the Blessed Virgin Mary of Hydria, located outside the walls of the city of Lecce, which had been held by the Franciscan Fathers until the year 1799, were suppressed; the government sold the property in 1813 to the barons Mancarella, Peter Montenegro, and de Rinaldis. The church, which had previously been used for profane purposes, was finally restored to public worship in the year 1850, under the care of the Bishop of Lecce. In the year 1881, the Presbyters of the Congregation for Mission purchased one-third of the convent, excluding the church, from the Mancarella brothers, who later, in the year 1890, also relinquished their rights over the church. COMPENDIUM OF THE AGREEMENT.

[*Latin ed. p. 625*]

LECCE. In the year 1884, the same priests acquired from the successors

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of the brothers Leanza another third part of the convent; and finally, in the same year, 1884, the remaining third part, whether of the convent or of the church, was assigned by the heirs of the Rinaldis to the original owners, the Fathers Franciscans. Due to the coexistence of two religious families, matters did not proceed peacefully, and discord increased, when the church, having been restored by the priests of the Mission, was dedicated, with the permission of the Ordinary, not only to the Blessed Virgin of Hydra, but also to Saint Vincent de Paul, as is testified by the inscription found there, and the statue from the main altar was transferred to another altar. Grieved by this innovation, the Fathers Franciscans petitioned the Holy Congregation, requesting, among other things, the restoration of the image of the Blessed Virgin to its former place, and that the church be assigned to them. The Holy Congregation, having carefully considered the matter, decided on July 4th of the year 1899 that the church should be assigned to the Order of the Friars Minor, who were the first to establish divine worship there, and that the image of the Mother of God from Hydra should be restored to its original place. The priests of the Mission appealed to the judgment of the Plenary Congregation; and while the two were contending, a third arose, namely the Ordinary of Lecce, who maintains that the church belongs exclusively to him.

A Synopsis of the Dispute: THE RIGHTS OF THE CONGREGATION AGAINST THE MISSION. The priests of the Mission, through their appointed procurator, first refute certain assertions of the Friars Minor, namely: concerning the priority of acquisition of the second third part of the convent, in which they preceded the Religious Minorites, because the contract for the second part of the convent was initiated by the priests in February of 1884, while, on the contrary, the Religious Minorites acquired their part in the following month of March; and concerning the dedication of the main altar exclusively to Saint Vincent de Paul, as is stated in the Acts, Volume XXXIII, page CCCXCIV, 40.

[*Latin ed. p. 626*]

626 FROM THE MOST HOLY FATHER, BISHOP, AND REGULATOR: The Minor Friars state that, because it is evident from the inscription itself that the larger altar was also dedicated to blessed Mary of Hydrus, and furthermore, concerning the renunciation of the Church, which was made for a pretended reason, because Missionaries are not permitted to have public churches, although in fact they do possess them. With these premises, the advocate inquires about the ownership of the church and claims it for the presbyters of the Mission. He states that this right was also recognized by the very opponents, since they inquired of the Holy See whether, through the dedication of the larger altar to Saint Vincent de Paul, the presbyters of the Mission had acquired any new right. However, setting this aside, the advocate contends that the aforementioned church should be

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attributed to these presbyters, who, and not the Minor Friars, were the first to establish worship therein. He proves this by the fact that, although in the year 1881 they acquired the first part of the building and sent a notification to the Church authorities regarding it, nevertheless, at the will of the Rector Bishop, the Rector of the Church delivered the keys of the Church to these very presbyters, and thus, from that time onward, they freely exercised worship therein, whether by performing sacred functions, or by receiving the confessions of the faithful, or by celebrating Mass. Testimony to all of this is given by a double declaration of the Rector of the Church, the priest Graia, who succeeded the Greek Rector, and in summary, he confirms all the other documents presented. Indeed, the advocate continues, what else does the performance of ecclesiastical offices in the Church signify, if not the establishment of sacred worship? On the contrary, it is argued that the possession of the church by the Missionaries was merely a factual possession, since they gave notice in the instrument concerning the ownership of the church. However, the advocate replies that the exercise of worship in this case derives its legal foundation from the will of the Bishop of Lyciensis, by whose consent the Rector Gala delivered the keys of the church to the presbyters of the Mission, and it also rests on the tacit consent of three civil lords, who permitted the Missionaries to freely perform divine services in their church. But even if the matter were to be restricted to private gatherings...

[*Latin ed. p. 627*]

LYCIEN. 627. Nor could there be any doubt concerning the precedence of the priests in the exercise of divine worship, since these priests held, with full rights, a second or third part of the convent from February 21, 1883, the date when the agreement was initiated, and the Minor Brothers acquired their part in March of the year 1884, although, according to the advocate, the exercise of divine worship should not depend on these private agreements. Furthermore, according to the advocate, the other argument of the Minor Brothers is founded on no solid basis, namely, that when dealing with a regular church, it is just to return it to its former owners; for the Church of Saint Mary of Hydria was built by the piety of the faithful, and it was never in the possession of the Minor Brothers; therefore, due to political changes, and with the cessation of worship therein, it can be debated whether it belongs to the Bishop, the Pontiff, the lords of the annexed convent, or the faithful, but it can never be asserted that it remained in the possession of the Minor Brothers. However, even granting, for the sake of argument, that the Church of Saint Mary of Hydria was originally in the possession of the Minor Brothers, the advocate points out that, by virtue of the law of the Concordat of 1818, ratified between the Holy See and the King of Naples, the alienation of ecclesiastical goods was permitted; hence, the churches and convents sold by the military government legitimately re-

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mained with the purchasers, and these purchasers suffered no subsequent harm. Finally, the Minor Brothers contend that the church, through the rite of consecration, passed out of the possession of private individuals and returned to the Franciscans. But the advocate replies that this objection is not of serious weight; for, once the consecration was completed, the church was already in the possession and ownership of the priests of the Mission; therefore, according to the Minor Brothers, the consecration of the church would have established a title of loss of ownership and of profession, which, indeed, cannot be accepted. Thus far, these considerations are relevant to the matter of law. However, the advocate continues, if the principle of equity is kept in mind, all things point to the church being assigned to the priests of the Mission. Firstly, because the Minor Brothers spent 6,825 livres to acquire their third part of the convent, whereas the priests of the Mission...

[*Latin ed. p. 628*]

628 FROM THE MOST HOLY FATHER, THE BISHOPS, AND THE REGULARS: They paid 20,000 for the remaining two parts of the convent, and another 20,000 for the restoration of the church. Secondly, the church remains surrounded by a building belonging to the Convent of the Missionaries, and the Minor Friars have a common cloister for access to the church for both communities. Finally, the Convent of the Missionaries and the Church serve as a seat for the assemblies of the Bishops of the region of Apulia, for the spiritual exercises of the clergy, and for the Apostolic School of various dioceses. However, these pious works would easily fall into ruin, and the Missionaries would be forced to leave the church. On the contrary, not far from the church of Saint Mary of Hydria, there is a convent and a church that formerly belonged to the Brothers of Alcántara, and there the Minor Friars could easily establish their dwellings. RIGHTS OF THE MINOR FRIARS. — On the other hand, the General Procurator argues the following: Firstly, he denies that the Missionaries were the first to perform sacred rites in the church of Saint Mary of Hydria, since, although they were requested by the Bishop of Lyciensi as Missionaries, they did not wish to have the church assigned to them, because they performed the sacred functions in a private chapel, and therefore the Minor Friars obtained it for the first time in the year 1884. The Missionaries purchased the first third part of the convent attached to the church in the year 1881, and the second third part in the year 1884; but in the relevant contracts, no mention is made of the cession of the church. The rights over the church, which, according to the Procurator, could not have been transferred, the Missionaries had from the civil owners in the year 1890, namely, when the Minor Friars had been performing worship in the church for six years. Then, the Procurator proceeds to refute another argument of the Missionaries, namely, the large expenses that they had incurred for the restoration of the church. He

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observes that these expenses were carried out by the priest Corallo, and that the church, restored in the year 1887, was solemnly dedicated; but the priest Corallo professed the religion of the Missionaries in the year 1888; therefore, it is falsely asserted that the church of Saint Mary of Hydria was restored by the Institute of the Missionaries.

[*Latin ed. p. 629*]

LYGIEN. 629, concerning the Procurator, noted that the restoration of the church had been largely accomplished through the contributions of numerous faithful, whose names are specified. Since the arguments presented against are based on no solid foundation, but rather flow like a stream in a valley, the judgment of the Sacred Congregation of [date] July 4, 1899, must be upheld. Having refuted the arguments of the opposing side, the Reverend Procurator affirms and establishes the rights of the Order in this matter. The Brothers Minor [Franciscan Order] received, in the year 1602, from the Bishop Scipione Spina, the chapel of Saint Mary of Hydria, which, with the addition of a building and the annexed convent, was canonically established in the year 1608 by the Bull of Pope Paul V. For the benefit of the faithful, the Brothers Minor peacefully maintained the church and the convent from the year 1602 until the year 1799; and finally, in the year 1813, under military rule, the church and the convent were sold. In the year 1818, by virtue of the Concordat, Pope Pius VII validated the alienation of ecclesiastical goods. However, according to the Reverend Procurator, these validations cannot extend to churches that were sold. 1.° Because the Concordat, being an agreement odious to the Church, must be interpreted strictly, according to the well-known axiom: "odiums sunt restringenda" [hatreds must be restricted]; therefore, under the name of ecclesiastical goods, the churches cannot be included; all the more so, because churches, being dedicated by a sacred rite, are exempt from commerce. 2.° This conclusion is confirmed by Article XIV of the aforementioned Concordat, which states: "The goods of regular canons, which have not been alienated, shall be restored... the number of existing convents... which the Minor Observants, Reformers, Alcantarines, and Capuchins call, shall be increased." Indeed, this increase in the houses of the Brothers Minor would certainly have been illusory and almost impossible in practice, if the religious were forced to rebuild their churches. Everyone knows the immense amount of money required to erect a church from its foundations. Finally, the Reverend Procurator concludes his defense by citing a decision of the Sacred Congregation of Bishops and the Regular Canons, issued in the year 1880 and confirmed on March 18th, which is similar to the present case and of the same nature.

[*Latin ed. p. 630*]

630 FROM THE SACRED CONGREGATION OF BISHOPS AND REG-

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ULARS: This is the matter. In the diocese of Salernitana, a certain parish priest claimed a right to the church of the Franciscans, which had been suppressed in the year 1810 and again subjected to the law of suppression in the year 1866. The following questions were presented to the Sacred Congregation: I. To whom does the church of Saint Anthony belong in this case? II. How and to whom should it be restored in this case? And the Sacred Congregation, on July 9, 1880, responded as follows: To I, affirmatively, in favor of the Brothers Minor; to II, that the presence of the parish priest should continue until the Brothers of the Observance can be integrated into the same, and this matter was reproposed the following year and dismissed with the same response. Furthermore, the Reverend Procurator noted that the decision issued on this matter on July 4, 1899, should be confirmed all the more, because it concerns a church and a sufficient part of the Convent, which are already in the possession of the aforementioned, since the year 1884. Therefore, a stronger reason prevails in the alleged case of Salernitana. IN FAVOR OF THE ORDINARY OF LYCIENSIS. Finally, the Bishop of Lyciensis argued that the church should be assigned to him, because: 1. While, on the one hand, according to the Concordat of the year 1818 entered into between the Holy See and the Neapolitan Government, it was declared that the alienated convents should remain in the hands of the possessors, on the other hand, it was stipulated that the churches annexed to them should be subject to the jurisdiction of the Ordinary. 2. This right, the Bishop said, is confirmed by the very fact. From the time that the Church of the Blessed Virgin of Hydria was restored to divine worship, the chaplains of the Church, or its Rectors, have always been appointed by the Bishop of Lyciensis until the year 1884. Indeed, even in that same year, although the annexed Convent had become the property of two religious communities, the same Bishop, in order to avoid discord, considered it best to appoint Rectors in the Church of Saint Mary of Hydria, chosen by the Superiors of the two communities. Nor, according to the Bishop, does the rescript of the Sacred Congregation of Bishops and Regulars of July 4, 1899, present an obstacle. For it refers to a question between the Minor Franciscan Fathers and the Mission Priests, in which case the Bishop was then extraneous, and to him...

[*Latin ed. p. 631*]

LYCIEN. 631 Therefore, it could not have harmed; but the Bishop who requested intervention in this matter now believes that it should be judged otherwise. With these points of reason presented for clarification, the following question was put forth by the parties involved: To which Church, the Church of Saint Mary in Hydria, should be assigned, in RESOLUTION. — The Sacred Congregation of Bishops and Regular Canons, on July 20, 1900, after seriously considering the rights of the parties, responded: — Considering all that is concurrent in this case, after a prior equitable com-

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pensation is given by the priests of the Congregation of Saint Vincent of Paul, to whom the Minor Friars shall yield their third part of the convent, the church should be assigned to the priests of the Mission.

FROM 3. CONGREGATIONE RITUUM, BRUNEN. Regarding the Lauretan litanies and the prayers to be said after Mass, the Most Reverend Lord Francis Salesius Bauer, Bishop of Brunensis, humbly requested the following questions to be resolved by the Sacred Congregation of Rites: I. Whether the Lauretan Litanies can be rightly and properly recited after the third "Agnus Dei," with the addition of the immediately following verse, response, and prayer, or with the insertion of "Christe, audi nos, etc.," as is done in the Litanies of the Saints, with the "Pater" and "Ave," or with one or the other? II. Is the prayer to Saint Joseph to be placed between the Rosary and the Litanies in the month of October, or after the Litanies have been properly recited? III. When are the prayers to be said with the people after any Mass without prescribed singing, if the Holy Rosary, the Litanies, and the prayer to Saint Joseph do not conclude at the same moment as the Mass?

[*Latin ed. p. 632*]

632 From the Sacred Congregation of Rites and Clergy, in response to the report of the undersigned secretary, after having heard the opinion of the Liturgical Commission and having considered all matters, it was decided to respond as follows: Regarding I. The *Litaniae Lauretanae* are to be recited as in the Appendix of the Roman Ritual, omitting "Christe, audi nos, etc."; however, the verses, the response, and the prayer following the recited litanies may be changed according to the diversity of the time. Regarding II. The prayer to Saint Joseph may be added at the end of the *Litaniae Lauretanae*, according to the prudent judgment of the Bishop. Regarding III. "The *Preces* to the Most Holy Pope Leo XIII are to be recited immediately after the prescribed Mass, upon the completion of the last Gospel," so that no other prayers may be inserted, according to the decision of the Sacred Congregation in document Basilica N. 3682, dated November 23, 1887; and if, after the Mass, the recitation of the Rosary for the people has not yet concluded, the celebrant shall recite these prayers with a single minister. And thus it was decreed. December 7, 1900. DOMINICUS CARD. FERRATA, Prefect of the Sacred Congregation. L. © S. DIOMEDES PANICI, Archbishop of Laodicea, Secretary of the Sacred Congregation.

VARIATIONS AND ADDITIONS FOR THE ROMAN MARTYROLOGY.

February 11th. Third day before the Ides of February. In Hetruria, on Mount Senario, the Seven Founders of the Order of Servites of the Most Holy Virgin Mary, who, after a most arduous life, attained a blessed death

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in the Lord through their merits and miracles. Those whom, in life, a true spirit of brotherhood united, and who, after death, have been venerated by the people without division, Pope Leo XIII also included together in the list of the Saints. In Africa, the birth of the Saints Martyrs, etc.

[*Latin ed. p. 633*]

From the Calendar of Saints:

March 8th. The eighth day before the Ides of March. In Granada, in Hispania, Saint John of God, founder of the Order of the Brothers of the Hospital of the Infirm, renowned for his mercy towards the poor and his contempt for worldly things; whom Pope Leo XIII declared the heavenly patron of all hospitals and the sick.

April 14th. The eighteenth day before the Calends of May. Saint Justin the Martyr, whose memory is celebrated the day before this.

April 16th. The sixteenth day before the Calends of May. In Rome, the birthday of Saint Benedict Joseph Labre, the Confessor, distinguished by his contempt for himself and his extreme voluntary poverty.

May 15th. The Ides of May. In Rouen, Saint John Baptist de La Salle, the Confessor: who, especially in the education of the young and the poor, excelled, and who, through his merits in matters of religion and civil society, founded the fraternity of the Christian Schools.

May 17th. The sixteenth day before the Calends of June. Near the Royal Villa in the Kingdom of Valencia, Saint Paschal, of the Order of the Minor Friars, a man of remarkable innocence and penance, whom Pope Leo XIII declared the heavenly patron of Eucharistic gatherings and societies dedicated to the Most Holy Eucharist.

May 23rd. The tenth day before the Calends of June. In Rome, the birthday of Saint John Baptist De Rossi, the Confessor, distinguished by his patience and charity in evangelizing the poor.

[*Latin ed. p. 634*]

634 FROM THE ROMAN BREVIARY. On the 22nd of June, the tenth day before the Kalends of July. At Rome, the feast of Blessed Innocent, the fifth Pope, who, with gentle prudence, labored to increase the liberty of the Church and the concord of Christians. Pope Leo XIII approved and confirmed the devotion offered to him. On the 5th of July, the third day before the Nones of July. At Cremona, in Lombardy, the feast of Saint Anthony of Mary Zaccaria, Confessor, Founder of the Regular Clerics of Saint Paul and the Angelic Virgins, whom Pope Leo XIII enrolled among the Saints because of all his virtues and miracles. His body is venerated at Milan, in the church of Saint Barnabas. On the 8th of July, the eighth day before the Ides of July. At Rome, the feast of Blessed Eugene, the third Pope, who, after having governed the monastery of Saints Vincent and Anastasius at the Waters of Health with great holiness and prudence, was elected Pope

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and most holily governed the entire Church. Pope Pius IX approved and confirmed the devotion offered to him. On the 18th of July, the fifteenth day before the Kalends of August. The feast of Saint Camillus de Lellis, Confessor, Founder of the Regular Clerics who minister to the sick, whose birth anniversary is celebrated on the day before the Ides of July: Whom Pope Leo XIII declared the heavenly Patron of hospitals and of the sick. On the 19th of July, the fourteenth day before the Kalends of August. The feast of Saint Vincent de Paul, Confessor, who fell asleep in the Lord on the fifth day before the Kalends of October. Pope Leo XIII established him as the heavenly Patron among God, of all societies of charity existing throughout the Catholic world, and of those which in any way originate from him.

[*Latin ed. p. 635*]

From the Sacred Rituals, number 635. On the 22nd of July, the eleventh day before August. In Lisbon, at the church of Saint Lawrence, a Confessor of the Order of the Minor Brothers of Saint Francis of Assisi, the General Minister of the Divine Word, renowned for his preaching and for the arduous deeds performed for the glory of God, who was distinguished by Pope Leo XIII and inscribed in the annals of the Saints, to whom the feast day of the ninth of July was assigned. On the 13th of August, the fifteenth day before August. In Rome, the birthday of Saint John Berchmans, a scholar of the Society of Jesus, distinguished for the innocence of his life and the observance of religious discipline, to whom Pope Leo XIII, the Supreme Pontiff, decreed celestial honors among the Saints. On the 18th of August, the fifteenth day before September. In Montefalco, in Umbria, the Blessed Virgin Clare, a nun of the Order of the Hermits of Saint Augustine, in whose very womb the mysteries of the Lord's Passion were renewed, and who was venerated with the greatest devotion. Pope Leo XIII, the Supreme Pontiff, solemnly enrolled her among the Saints. On the 19th of August, the fourteenth day before September. In Rome, the Blessed Urban, the second Pope, who, following the footsteps of Saint Gregory the Seventh, devoted himself to the study of doctrine and religion, and incited the faithful, marked with the sign of the cross, to redeem the sacred places of Palestine from the power of the infidels. Pope Leo XIII, the Supreme Pontiff, ratified and confirmed the worship that had been offered to him from time immemorial. On the 7th of September, the seventh day before the Ides of September. In Nonantola, in Emilia, Saint Hadrian, the third Pope, distinguished for his zeal in reconciling the Roman and Eastern Churches. He died most holily at Spinae and was renowned for miracles.

[*Latin ed. p. 636*]

636 FROM THE ROMAN BREVIARY. On the 9th of September. The fifth day before the Ides of September. In Carthage Nova, in Southern America, the feast of Saint Peter Claver, Confessor, of the Society of Jesus, who, with

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remarkable self-denial and extraordinary charity, devoted more than forty years to the Negroes abducted into servitude, and who, by his own hand, brought nearly three hundred thousand of them to Christ, and who was placed among the ranks of the Saints by Pope Leo XIII. On the 10th of October. The sixth day before the Ides of October. In Rome, the feast of Blessed John Leonard, Confessor, Founder of the Congregation of Regular Clerics of the Mother of God, known for his works and miracles; whose works were the foundation of the Missions instituted by the Congregation for the Propagation of the Faith. On the 16th of October. The seventeenth day before the Kalends of November. In Cassin, the feast of Blessed Victor III, Pope, who, as successor to Gregory VII, illuminated the Apostolic See with new splendor, and who, through divine help, obtained a notable victory over the Saracens. Pope Leo XIII ratified and confirmed the worship that had been offered to him from time immemorial. On the 30th of October. The third day before the Kalends of November. In Palmae, in Majorca, the feast of Saint Alphonsus Rodriguez, Confessor, a temporary member of the Society of Jesus, distinguished by his humility and constant practice of mortification, whom Pope Leo XII and Pope Leo XIII added to the calendar of the Saints. On the 9th of December. The fifth day before the Ides of December. In Gray, in Burgundy, the feast of Saint Peter Fourier, Canon Regular of Our Savior, founder of an institution for teaching girls, of the Regular Canonsesses of Our Lady, whom Pope Leo XIII added to the list of Saints, because of his virtues and miracles.

[*Latin ed. p. 637*]

637 FROM THE SACRED CONGREGATION OF RITES, December 19th. Fourteenth days before January. In Avignon, of the Blessed Urban, fifth Pope: who, having restored the Apostolic See in Rome, perfected the union of the Greeks with the Latins, and having restrained the infidels, deserved the highest praise for his service to the Church. Pope Pius IX, the Most Holy Pontiff, approved and confirmed the veneration of him. These are in accordance with the originals. For the sake of truth, etc. From the Secretariat of the Sacred Congregation of Rites, March 11, 1901. Pro-Recto, P. D. DIOMEDE PANICI, Archbishop of Laodicea, Secretary. L. * S. Philip, Canon of Fava, Substitute. CONCERNING the feast of Saint John the Baptist of La Salle, throughout the world. After the most humble petitions of the Reverend Father Robustianus, General Procurator and Postulator of the Congregation of the Brothers of Christian Schools, which were presented to the Sacred Council by the undersigned Cardinal, Prefect for the legitimate recognition and preservation of Rites, the Most Holy Pope Leo XIII, after consulting with the aforementioned Sacred Congregation, deigned to grant that the feast of Saint John the Baptist of La Salle, with the Office and Mass of the Common of a Confessor, not of a Doctor, except for the proper prayers and readings of the second and third nocturns, under a lesser dou-

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ble rite, be celebrated annually by the entire Church on the fifteenth of May, after the year 1902; and He commanded that this feast, with the aforementioned Office and Mass (of the same Common of a just man, except for the prayer and the Gospel), be inscribed in the Universal Calendar and in the new editions of the Roman Breviary and Missal, and also that the eulogy, as this Decree prescribes, be inserted in the Roman Martyrology. In contradiction to whatever may be to the contrary. February 10, 1901. D. Cardinal FERRATA, Prefect. L. « S. fDIOMEDES PANICI, Secretary of the Sacred Congregation of Rites.

[*Latin ed. p. 638*]

638 FROM THE RITES OF RUSSIA. Concerning the beatification and canonization of the venerable Servant of God, Mary Guilelma Emilia de Rodat, foundress of the congregation of the Sisters of the Holy Family. CONCERNING THE DOUBT: Whether it is established that she possessed the theological virtues of Faith, Hope, and Charity, both towards God and her neighbor, as well as the cardinal virtues of Prudence, Justice, Fortitude, and Temperance, and their associated virtues, in a heroic degree, in the case and to the extent of what is being considered. By a singular providence of God, it has happened that during these days, in which war is being inflicted upon religious families, who are highly esteemed by all good and virtuous people, and who boast of their cultivation of humanity and of the Catholic name, public honor and remembrance are given by the Apostolic See to those who, from these same families, have distinguished themselves by the sanctity of their lives and the admirable merit of their deeds. Among these, the most deserving is that most virtuous virgin, who has earned great merit through her Christian institution for girls and through almost every condition of human life, Mary Guilelma Emilia de Rodat, Mother Founder of the Institute of the Sisters of the Holy Family, to whom the ascent to the honors of the Blessed in Heaven is being prepared. She was born in the village of Druelle in France, near the city of Rodez, from honest and pious parents. In her infancy, she was taken to the town of Ginals, where she was raised with the diligent care of her grandmother, so that she could not have been more fruitful in the fruits desired from that tender age. Inclined to piety and inflamed by the love of the divine, detached from the vanities of the world, excelling in patience and gentleness, although possessing a more fervent nature, she aroused great expectations from herself through her outstanding qualities of mind and the presence of virtues. On the occasion of the year 1804, she restrained her delicate body with remarkable austerity. Eager for the propagation of the Christian faith, and wonderfully devoted to the glory of the divine, and to the common salvation, she seemed, in a way, to pave the way for a future ministry of charity, and she gathered around her a few girls, with whom she frequently and for a long time spoke about God and heavenly things. At the age of ten and eight years, she

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entered the monastery called Saint-Cyr, where she diligently performed the task of teaching the rudiments of the faith to the girls, and preparing them for the sacred mysteries.

[*Latin ed. p. 639*]

From the Sacred Ritual, section 639, concerning proper arrangement. She resided in that house for eleven years, although with interruptions, as in the homes of several other Sisters, her religious life was endangered. Finally returning to her former residence, which was intended for the care of the sick, she considered establishing a new foundation to educate and care for needy girls. After deliberation on the matter, she opened a second house in Louth, for the instruction of more noble girls. Soon, she added the care of the sick and the consolation of those held in custody to her activities, without being restricted by any monastic rule; furthermore, she founded a house for infants and homes for women whom she led from the broad and spacious road to the narrow path of salvation through Christian charity. This institution, through which the Servant of God almost omitted no form of charity, spread rapidly throughout all the provinces of France. Thus, having diligently served the glory of God and the salvation of her neighbors through many labors, anxieties, and sorrows, her bodily strength finally failing, she died a precious death in the sight of the Lord, on the thirteenth of the month of October, in the year 1852. After her death, her reputation for holiness, which she had demonstrated throughout her life, increased, especially because of the miracles which were said to be wrought through her intercession; therefore, an inquiry was duly instituted into her life and works, with all the procedures prescribed by the Apostolic Constitutions for such causes being observed, and an examination of her virtues was initiated by this Sacred Congregation. Therefore, three investigations were held concerning this matter. The first took place on the sixth of the ides of May, in the year 1898, before Cardinal Lucido Mariam Parocchi, Bishop of Porto, and the Relator of the Cause of Saint Rufina; the second in the Vatican buildings on the eighth of the calends of June of the following year; and the third in a general assembly held there on the fourth of the calends of March of the following year, before His Holiness Pope Leo XIII; in which the aforementioned Most Reverend Cardinal proposed the following question: "Whether it is established that the Servant of God, Mary Guilelma Emilia De Rodat, possessed the theological virtues of Faith, Hope, and Charity, in God and in her neighbor, as well as the cardinal virtues of Prudence, Justice, Temperance, and Fortitude, and those virtues which are attached to them, in a heroic degree, in the case and to the extent that is relevant to the matter under consideration." The Most Reverend Cardinals and Consultors each gave their votes. His Holiness, however, refrained from revealing his opinion, and advised that divine light should be more

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earnestly sought in a matter of such importance.

[*Latin ed. p. 640*]

640 FROM THE SACRED RITUAL: Today, on this Sunday within the octave of the Lord's Ascension, the most holy Host was offered to the divine Majesty, and, approaching the hall of the noble Vatican Basilica, the Most Reverend Cardinals were joined by Dominic Ferrata, Prefect of the Sacred Roman Congregation, and by Lucida Maria, Relator of Causes for the Parish, together with the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, and myself, the undersigned secretary, and, in their presence, he solemnly and duly declared: "It is established that the theological virtues of Faith, Hope, and Charity, in God and in neighbor, as well as the cardinal virtues of Prudence, Justice, Temperance, and Fortitude, and those virtues connected with them, are present in the Venerable Servant of God, Mary Guilelma Emilia de Rodat, in a heroic degree, in the case and with respect to the matter under consideration." Furthermore, he ordered that this Decree be made public and be recorded in the acts of the Sacred Roman Congregation on the nineteenth day before the Kalends of June, in the year 1901. DOMINIC CARDINAL FERRATA, Prefect of the Sacred Roman Congregation. L. © S. DIOMEDES PANICI, Archbishop of Laodicea, Secretary.

[*Latin ed. p. 641*]

641 Letters from the Most Holy Father Leo XIII to the author of the book in which the admirable indwelling of the Holy Spirit in just souls is explained. To the beloved son Bartholomew Froget, a Dominican, in Poitiers. Beloved son, greetings and the Apostolic Blessing. — The fruits of instruction and doctrine which frequent acts of piety among Catholics offer us are, indeed, all the more pleasing to us who strive to illuminate our teachings. And deserving of particular praise is the book which you recently sent us; in which, following the teachings of the Angelic Doctor, you have clearly explained the admirable indwelling of the Divine Spirit in just souls. This passage, a most excellent foundation of Catholic faith, and abundantly fruitful in pious consolation, we have highly commended in our Encyclical Letters to those who diligently strive to cultivate souls for eternity. It is indeed fitting that such ignorance be completely eradicated from the Christian people; and therefore, we earnestly desire that all diligently strive to know, love, and implore that highest gift of God, from which so many things flow and so many benefits are derived. We rejoice that your book has already provided some assistance in achieving this goal; and we hope and desire that it will achieve even greater progress in the future. Furthermore, we praise your obedience to our authority, and your filial devotion towards us, as a testament to paternal benevolence and a sign of divine blessings, and we impart to you our Apostolic Blessing. Given in Rome, at St. Peter's,

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on the 20th of February, 1901, in the twenty-fourth year of our pontificate. LEO PP. XIII.

LETTERS from the Most Holy Lord Leo XIII concerning the Association of the Perpetual Rosary. To the beloved son Costanzo, Director of the Association of the Most Holy Mary of the Rosary, in Le Bec-Hellouin, of the Preachers, Perpetual in Italy. Our firm hopes of four years ago, when we wrote the Encyclical on the Rosary of Mary, are now not only fulfilled, but are increasing day by day.

[*Latin ed. p. 642*]

642 Letters are further affirmed. As you have informed us, an Association of the Most Holy Rosary has also been established in Italy, and already thousands of Catholics, day and night, succeed one another, imploring, through the Rosary, perpetual praise and supplication for the favors of the Divine Mother, both for themselves and for the afflicted Church. This is a great joy for Us, for We who, from our childhood, have affectionately loved the Mother of God, and have always experienced how usefully our hopes are placed in her patronage. Therefore, not only do We praise the fruitful work with which you have labored in this regard; but We exhort all the faithful to enroll in this legion of those who pray under the banner of Mary, and to be ready for duty. In order that this may happen with greater zeal, to you, first of all, and to all others who are already enrolled or who will enroll in the Most Holy Rosary, We impart, from the heart, the Apostolic Blessing. Given at Rome, near St. Peter's, on the 28th of March of the year 1901, the twenty-fourth of Our Pontificate. LEO XIII, Pope.

Letters from Our Most Holy Lord Pope Leo XIII to the Abbot of Solesmes, in which he praises and encourages the studies and publications concerning Gregorian chant undertaken by religious men of the Benedictine Order.

To the beloved Religious Son, Brother Paul O.S.B., Abbot of Solesmes, Delatte: Greetings and the Apostolic Blessing. We know, and We have already praised, the diligent work you have undertaken in the study of sacred music, of which it is well known that the great Gregory is to be considered the author. And likewise, We cannot but approve your labor, so diligently and constantly expended in seeking out and disseminating ancient monuments of that kind. For We see the fruits of your labors consigned to various volumes, and not a few, which you have sent to Us as a most pleasing gift at various times, and which, as We have learned, are now widely before the eyes of men.

[*Latin ed. p. 643*]

LETTERS 643 are received with favor. Indeed, whatever is undertaken with diligence in illustrating and promoting the most holy rites, should be commended, not only for its ingenuity and industry, but also, and this is far more important, for the hoped-for increase in divine worship. If the

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Gregorian chants have been prudently and wisely devised to illuminate the meaning of the words, and if they possess, when skillfully employed, a great power and a certain delightful blend of gravity, which can easily stir the minds of the listeners to pious emotions and foster salutary thoughts, then it is fitting that all, especially those from either order of the clergy, who believe they can contribute something in this field, whether in knowledge or in art, should diligently and freely strive to do so, according to their abilities. For, while maintaining mutual charity and obedience to, and reverence for, the Church, the studies of many can be very beneficial, as has been the case with yours to this day. We impart, in the Lord, our paternal blessing to you, dear son, and to your colleagues, as a pledge of divine favor and of our paternal benevolence. Given at Rome, near St. Peter's, on the 17th of May, in the twenty-fourth year of Our Pontificate. LEO XIII.

LETTERS FROM HIS HOLINESS, POPE LEO XIII, TO HERBERT STORY, Prefect and Vice-Chancellor, also Rector, Doctors, and Auditors of the University of Glasgow, recalling these days the 450th anniversary from the founding of this university.

Know that your common letters have been pleasing to Us. To cherish the memory of benefits, and even more to openly and freely express them, is the virtue of a generous and not narrow-minded spirit; and We are pleased to recognize this virtue in you, who so admirably combine the best of studies with the adornments of talent. Since your great Lyceum, where the industry of all is expended, owes its origins to the Apostolic See, therefore, in the solemnity of its anniversary, your thoughts turned to the Roman Pontiff, and you readily invited Us to join you in a spirit of joy, as if desiring to make amends, should you have lacked the expression of Our will at this time.

[*Latin ed. p. 644*]

644 We are indeed pleased, and deem it most fitting, that such an office of human kindness is joined with the equity of judgment. Remembering the past, we are certainly delighted to be among you these days, and we are pleased by the thought of the very useful institution established by Pope Nicholas V. Indeed, that illustrious predecessor of ours, through his actions, immortalized himself among the Scots; and moreover, he openly demonstrated the power of the Roman pontificate, influencing the elegance of doctrine, the studies of the liberal arts, by which the human race is greatly nourished, to grow. We desire that this noble home of the ancient disciplines may constantly flourish with the fruitful abundance and the glory of its name; and we pray to Almighty God that He may deign to direct your learned labors in every way to the truth, and that He may graciously unite you all with us in perfect charity. Given in Rome, at St. Peter's, on the ninth day of June, in the year 1900, in the twenty-fourth year of Our pontificate. LFO PP. XIII.

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(1) To the Most Holy, Most Reverend, Most Learned Pope Leo XIII, the entire University of Glasgow sends greetings. In great joy – since we are soon to celebrate secular holidays – we desire above all to remember with gratitude that this vast University, today endowed with all the resources of intellect and work, was received from the very Apostolic See, and was established with the most loving commendation of the Supreme Pontiff. That most learned Pope, Nicholas V, in the year 1451 of the Incarnation of the Lord, preferring the Scots and the arts above all, desired that a General Studium be established among us, and that our doctors, masters, and students might enjoy and use all the liberties granted in the Studium of their city, Bologna. As a pious daughter offers what she has received to her most beloved mother, so we believe it is fitting that we share with Your Holiness our joy, and that we offer deserved thanks to the Apostolic See for so great a benefit. Therefore, we pray that you may deign to enhance our happiness with your authority; and if, through these unjust times, and through so many difficulties of the sea and of roads, it cannot be done, we hope that at least through some benevolent person of yours, you will signify your regard for us, and that you will commend this our University, founded by the learned Nicholas, blessed by King James of the Scots, cared for and defended by the Bishop of Glasgow, and finally increased by many of our kings with many benefits, to the most learned and most elegant cultivator of Latin letters, so that he may amplify it for your sake and commend it to posterity. Given in Glasgow, on the Kalends of May, 1901. R. HERBERT STORY, Prefect and Vice-Chancellor.

[*Latin ed. p. 645*]

645 FROM THE HOLY CONGREGATION OF THE COUNCIL, 49 fragments, ANDRIEN. CONCERNING THE RIGHTS OF CONFRATERNITIES FOR THE CELEBRATION OF THE SACRAMENTS, January 26, 1901. Session 22, chapter 9, Concerning Reforms. In the city of Riez, where the piety of the ancients has accumulated so many institutions for promoting divine worship, a confraternity dedicated to Saint Augustine has flourished and still flourishes in the church dedicated to the saint, having existed for some time, or rather, for three centuries. This confraternity was united by a bond of friendship with the Eremite Fathers, who venerated Saint Augustine as a Lawgiver, and who were devoted to this church. However, these Fathers, as happens to other religious families, were expelled from their dwelling place due to the upheavals of the late eighteenth century; in their place, a college of canons was established, which has maintained this church until our own day. However, a change has occurred in the governance of this church in recent times, when, in the year 1857, by order of the Holy Congregation of the Council, five parishes of Riez were established through the division of one parish that had previously existed. Of these, one parish was established in the church of Saint Augustine;

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and its governance was entrusted to a parish priest, who was not the least among the canons, and who enjoyed the rights proper to his office. The confraternity, which, bearing the title of Saint Monica, has its own Rector and performs certain functions, such as the reporting of members, has customarily celebrated [its feasts], under the guidance and direction of its Rector. However, today, the parish priest claims the right to direct and celebrate these functions, arguing that a confraternity which cannot demonstrate its canonical institution, but merely possesses royal approval, is not a confraternity properly so called, and to which the celebrated decree of the City and the World of the year 1703 does not apply. COMPENDIUM OF THE MATTER.

[*Latin ed. p. 646*]

646 ANDRIA. [The matter] was decided, but [the sodality] is to be considered among lay societies or pious unions, subject to the authority and care of the parish priest. On the other hand, the confraternity argues that it lacks a decree of canonical institution, which the opponent unjustly treats as apocryphal; or at least, it contends that, by an ancient custom, it should not be denied the right of a confraternity. Therefore, this matter was brought before the Curia, which, above all, sought to uphold a certain opinion of the Curia, confirmed by the Sacred Congregation of Rites on May 6, 1893, in which a similar controversy was settled between the confraternity of the Immaculate Conception and the parish priest of the church of the Most Holy Annunciation (1). Nevertheless, the Curia of Andria issued a judgment on February 11, 1899, in accordance with the intention of the parish priest of St. Augustine; therefore, the confraternity instituted a process of appeal before the Sacred Congregation of Rites, which the parties are pursuing through their appointed representatives, with the following questions put forward for consideration: I. "Whether the judgment of the Curia of Andria of February 11, 1899, should be confirmed." And, to the contrary - II. "Whether the proper functions of the disputed sodality, that is, the exposition of the Blessed Sacrament in the manner of forty hours, the anniversary Masses for deceased members, the feast of St. Monica and of the Virgin of Consolation, as well as the fourth Sunday of each month, pertain to the parish priest, or rather, to the rector of the aforementioned sodality, in this case."

SYNOPTIC DISCUSSION.

DEFENSE OF THE SODALITY.

Through its representative, the appealing sodality first seeks to refute the exception, by which the judge of Andria decided the case in favor of the parish priest, who maintains that the sodality was not established with

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legitimate authority: "and therefore lacks the right to stand in judgment against the parish priest. Indeed, if it is conceded that the decree of erection was valid, it does not follow that the sodality was established in the church of St. Augustine." The lawyer argues that the sodality was duly (1) *Recol Vol. XXVI, 203*.

[*Latin ed. p. 647*]

ANDRIA. It is said to have been founded in the year 647, as testified by the decree of Bishop Strozzi on February 19, 1628. However, the parish priest objects, claiming that the Bishop's decree should be considered apocryphal, to which the advocate responds by presenting a copy of the decree, authenticated by a handwritten exemplar, which was transcribed by a notary. He notes that copies made by a notary are to be held with certain faith in both forums, and that it would not be permissible to deny this except if it were proven to be false. He adds: "This copy was extracted from its original, which exists in a certain ancient book of the Venerable Congregation of St. Monica... And for the sake of truth, I, Baldinus of Andria, notary." It is not surprising that the parish priest is astonished, since Baldinus lived almost a century after the decree was issued. However, it is clear from the text itself that the Bishop is identified not by his signature, but by the insignia he bears. Furthermore, a copy of the decree was found in the archives of the Curia, discovered by Baldinus. The parish priest objects: "The Bishop's decree should not be considered valid, because, according to the regulations in the churches, the consent of the Regular clergy must be obtained." However, the advocate notes that the decree is not invalidated if the consent of the Regular clergy is lacking, but rather that the regulations only grant privileges to the confraternity. He proves that the consent was indeed obtained through this document: "On November 16, 1693, the brothers of St. Monica, having assembled in their usual oratory, gave to the sacristan the following items: one table of the brothers, another of the statutes of the Confraternity of St. Monica, and a painting of the indulgences granted to the aforementioned Congregation by the Most Reverend Fathers of the Order of St. Augustine." Furthermore, he proves by conjecture that the Regular clergy approved of the confraternity, because they never disapproved of it. For if the Regular clergy had not approved of the confraternity, it is scarcely credible that they would have tolerated its existence within their church for two centuries. Finally, the advocate proves that the confraternity was founded by the Bishop's decree, because the Bishops of Andria have consistently treated it as rightfully established. Indeed, they have visited it as a legitimate confraternity.

[*Latin ed. p. 648*]

648 ANDRIA. "Praeterea, undecim sodalitates sive laicorum confraternitates in aliquibus praedictis Ecclesiis fundatae reperiuntur... una in

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claustro conventus S. Augustini sub titulo S. Monicae" - ab ea rationes repetierunt: "essendoci stato presentato ed esibito il presente libro delle rendite della Venerabile Confraternita di S. Monica sotto la protezione e titolo di S. Maria della Consolazione dentro la Chiesa di S. Agostino di questa città di Andria... dopo aver ammesso tutte le partite di introito ed esito, di frutto come di capitale... averno ritrovato" (anno 1813, die 3 Martii) - curarunt, per sacerdotem a se delectum, ut religiose administraretur. - "La confraternita si aduna assistita dal Rettore, non che da questo Rev. deputato Ecclesiastico." - Imo etiam, quum, sodalibus rogantibus, peculiaribus privilegiis, (indulgenziis), sodalitatem ut legitime institutam, Romanus Pontifex decorasset "in Ecclesia conventus fratrum Ordinis Heremitarum S. Augustini civitatis Andriae, canonice, ut asseritur, instituta" Episcopi, quod concesserat Pontifex, sunt exsecuti, et privilegia, ut sine fraude impetrata, sollemniter sua subscriptione rata habuerunt. "Visto da noi in Sacra visita addi 6 Maggio 1823 - Michele Priore Cuomo Prot. Anostolicus - Vic. Gen." Adsunt, pergit orator, scriptae, iam inde antiquitus, constitutiones, quibus sodalitas regitur, (anno 1693). "Le regole sono in una tabella, che si conserva nell'oratorio - furono approvate e confermate dal medesimo Vescovo Strozzi." - Usque indicti sunt, a sodalitatis initiis, sodalium conventus: in quibus se legitime institutam sodalitas sexcenties asseveravit. - "Riunita la Ven. Fratellanza sotto il titolo di S. Monica di questo comune, eretta in detta Chiesa di S. Agostino" (anno 1844). Episcopi vel hisce conventibus interfuerunt per vicarium, vel certe quum rationes acciperent, Ecclesiamve visitarent, conventuum sibi exhibitas relationes saepe saepius lectitarunt. - Sacra celebrata sunt quae sodales saccum induti a saeculo septimodecimo celebrare solent; sunt pompae, quibus, propria praeeunte cruce,

[*Latin ed. p. 649*]

ANDRIEN. Sixty-four members, from the same period, are accustomed to being present together, wearing the same attire. Furthermore, the advocate notes that this brotherhood, already existing in the seventeenth century, at times acquired property, at times inherited estates, and at times was admitted to the forum to reclaim its rights. Moreover, it is added that, in accordance with ecclesiastical constitutions, the brotherhood has faithfully complied, or sought to comply, in matters of dispensing with its dues. This, indeed, could not have been the case unless the brotherhood was considered to be part of the ecclesiastical community, as in the case of "the brotherhood of Saint Monica... having established... that two hundred ducats be taken from the largest sums existing in our mortuary chests, and lent out... and finding itself prohibited from doing so by the third title, ninth chapter, fifth article of the diocesan synod... feels obligated to humbly implore Your Excellency to... deign to dispense with this regulation." These signs are so clear that they certainly establish, beyond any doubt, the rights

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of the brotherhood, if not by a positive decree of the Bishop, at least by prescription. Furthermore, the advocate argues that the brotherhood was properly established within the very Church of Saint Augustine. Indeed, a decree was given by Bishop Strozzi, which stated: "Permission is granted for the erection of the aforementioned Congregation, with all that is contained in the petition." However, the members, through their petition, had requested that the brotherhood, already existing within the Church of Saint Augustine, be formally instituted by the Bishop. Therefore, the existence of the brotherhood within this church is declared by the testimony of the Bishop. "D. Nunzio Papalino, D. Riccardo Mastro Antonio, D. Giovanni Felice Ciampa, D. Federico Colucci, and many others from the city of Andria, wish to inform Your Excellency and Your Eminence that a Congregation has been established in the Church of Saint Augustine in Andria, under the title of the belt of Saint Augustine and Saint Monica." It is objected that, within the same petition, certain words can be found which suggest that the brotherhood was established, not within the Church of Saint Augustine, but within a separate chapel; "they devoutly implore Your Excellency and Your Eminence to grant their holy consent, approval, blessing, and also permission to be able to..."

[*Latin ed. p. 650*]

650 ANDRIEN. "And they shall go through the city, and they shall apply this alms to the benefit of said oratory and chapel," but the procurator observed, these words signify that the Sodalitas [brotherhood] had a "sacellum [small chapel] where the brethren could gather and assemble at the appropriate time": — and after Mass, if the opportunity arose, "Masses would be celebrated within the oratory of said Congregation, being erected in that altar." — The orator argued that this sacellum had been destined for these uses; however, he contended that the Sodalitas had been instituted, not there, but in the Church. "For it is scarcely conceivable," the orator insisted, "that the Sodalitas would have been instituted there, when just above in the same document, it is affirmed that the Sodalitas was born - in the Church." It is scarcely conceivable, he continued, that it would have been requested that Mass be celebrated in the sacellum. — Nor is it conceivable that the brethren habitually performed sacred rites in the sacellum; rather, they habitually celebrated gatherings there, while in the sacellum they did not perform sacred rites. — "Having gathered the Chapter within the oratory of St. Monica." Furthermore, the parish priest objected, that the brethren sometimes placed their seat of the Sodalitas, not in the Church, but in the sacellum. The advocate responded, that the brethren sometimes used less apt language, since the Sodalitas, while performing sacred rites in the Church, would sometimes gather in the sacellum, and sometimes seemed to have their seat there, without explaining the reason. But this seat of the Sodalitas was placed in the Church by the Presidents, when the Bishops were about

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to celebrate sacred rites in the Church, as they approached them according to the document. — "The Prior of this canonically erected Congregation of St. Monica in this parish church of St. Augustine." The administrators of the Sodalitas had this seat in the Church, when they made accounts "in the book of income and expenses of the Venerable Brotherhood of St. Monica, under the title of Santa Maria della Consolazione, located within the Church of St. Augustine in this city of Andria." "Moral and material account given by the members of the administrative commission of the Congregation of St. Monica erected in the Collegiate Church of the Most Holy Annunciation"; and finally, the prelates who governed the diocese attested that this was the case.

[*Latin ed. p. 651*]

ANDRIEN. 651 "Having been presented and exhibited, this book of revenues of the Venerable Confraternity of Saint Monica, under the protection and title of Saint Mary of Consolation, within the Church of Saint Augustine..." According to the advocate, all doubt is removed by other arguments, namely, that within the church itself is an altar dedicated to the sodality of Saint Monica; which is adorned with sacred objects, maintained at the expense of its members. - "In the corner of the Gospel side of the main altar, there is an altar of Saint Monica, constructed of stone. In the middle of it is preserved a painted cloth depicting the Virgin of Consolation, Saint Monica, and Saint Augustine. The candelabra are made of gilded wood, and this is maintained by the aforementioned sodality of Saint Monica, which takes care of many pious works for the benefit of the sodality (from the sacred visitatorial report of the Bishop of Bologna, in the year 1830)." Furthermore, the advocate stated, sixty years ago, the confraternity exchanged a disputed chapel, along with a small sacristy, for another property. However, the Chapter acquired possession of the chapel, without the Bishop objecting. The advocate argued that no one would believe that the confraternity, without the Bishop's objection, would have given the chapel to the Chapter and received a sacristy in its place, where sacred functions could not be performed, because an altar was needed. Even if it were admitted that the confraternity was established in the chapel, the advocate continued, it is clear that from its very beginnings, it performed sacred functions within the church; and that, at no time, did the Augustinians, nor later the Chapter, nor even the parish priest before the beginning of this cause, object to this. Furthermore, it is clear that the Bishops did not conceal this, who, where necessary, exercised their authority in these sacred matters. - The advocate insisted, "He who abuses his right, is either not tolerated for three centuries; or, if he is tolerated, he seems to be acquiring a certain right through the patience of others." The advocate argued that the confraternity has operated within the church for three centuries, without anyone ever objecting, and he particularly drew attention to the custom of collecting alms within the

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church, which, according to the advocate, could not have been done if...

[*Latin ed. p. 652*]

652 ANDRIA. There, the sacred rites were celebrated. – It is alleged that the brethren of the sodality once used a large altar, which the Augustinians forbade, only stipulating that no machinery be placed upon it. – "On the occasion of the Forty Hours devotion, it was prevented the brethren (lay members of the congregation under the title of St. Monica) from erecting machinery upon the large marble altar of the aforementioned church, which belongs to the convent, and to which cost thousands, in order to avoid damage to the marble itself, to the stucco, and even to the choir due to the beams necessary for such machinery." – Furthermore, the advocate argues, that these very testimonies confirm what the parish priest relies upon to establish his exception. For they show that Bishop Adinolfio, and the presidents of the sodality, responded to the church that the sodality did not belong to the church, but added that the sacred rites were celebrated in the Church of St. Augustine, which *belonged* to the sodality: – "not a church of its own, but it performs its functions on occasion in the church of St. Augustine." But it is objected that the Augustinians, forbidding the brethren from placing machinery, threatened to expel them unless they obeyed the order; "it is within the power of the Fathers to expel them as disturbers of their peace." The advocate responds that these threats were without any basis, and therefore the court of Andria, after dismissing the Augustinians' prohibition against the brethren placing machinery, strictly ordered. – "The Diocesan Court of Andria issued a decree... by which it ordered the Prior of the aforementioned convent that, under penalty of paying two hundred and fifty piastres, he should not introduce any novelty, specifically in the matter of the machinery displayed by the aforementioned brother." Because, according to the advocate, it is sufficiently clear from what has been said that the sodality was established by the authority of the Bishop in the Church of St. Augustine, he discusses the rights of the sodality. And what are the rites that belong to the sodality, this is taught by the judgment of Andria, which the Sacred Congregation of Rites confirmed on May 6, 1893. It holds that the rites that belong to the sodality are "those functions to which the congregation is obligated by rules or conventions, directly or indirectly approved, or at least..."

[*Latin ed. p. 653*]

ANDRIEN. "Per un lungo periodo, questa pratica è stata riconosciuta dall'autorità ecclesiastica—per cui la Congregazione ha già un diritto corrispondente e l'obbligo di farla eseguire a suo nome." L'avvocato inizia, citando la funzione in cui il Sacramento è adorato: "l'esposizione del Santissimo Sacramento in forma di Quarant'ore, nella quarta Domenica di Quaresima."

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"Questo rito," afferma l'avvocato, "fin dall'origine della sodalitas, i membri, come un compito imposto alla sodalitas, fino ai nostri tempi, l'hanno osservato." Infatti, alla fine del diciassettesimo secolo, la sodalitas già riconosceva questo dovere: e, a suo nome, celebrava il rito e lo gestiva liberamente.

"In una riunione del Capitolo tenutasi all'interno dell'oratorio di Santa Monica—... devono essere eletti i deputati per le Quarant'ore della quarta Domenica di Quaresima" (8 febbraio 1683). "Si propone alla fratellanza che si avvicinano le Quarant'ore che devono essere celebrate da questa nostra Congregazione, in virtù degli obblighi che essa ha, ed è necessario eleggere due deputati per provvedere all'acquisto di cera, polvere, musica, prediche e ogni altra cosa necessaria per dette Quarant'ore, affinché siano celebrate con decoro e carità" (8 marzo 1696).

"Gli Augustini," continua l'oratore, "sono testimoni dello stesso libro, in cui si discuteva di come le macchine fossero poste vicino all'altare maggiore dai membri della sodalitas: 'se i fratelli hanno l'obbligo di fare il triduo, non hanno la facoltà di distruggere e rovinare la Chiesa con macchine'" (15 marzo 1787).

"Allo stesso modo, le relazioni vengono redatte dagli stessi Vescovi, quando visitano la diocesi: 'Questa Congregazione... ha l'obbligo di celebrare l'esposizione del Santissimo Sacramento per quattro giorni, a partire dalla quarta Domenica di Quaresima fino al mercoledì successivo'" (dalla Visitatio di Monsignor Adinolfi).

"Questo obbligo," conclude l'avvocato, "è proprio della confraternita, come stabilito dalle Costituzioni: 'Deve la Congregazione celebrare le Quarant'ore in ogni quarta Domenica di Quaresima con quella solennità che potrà e che è stata solita a fare, come un obbligo intrinseco della stessa, facendo cantare la messa solenne nell'ultimo giorno e facendo celebrare..."

[*Latin ed. p. 654*]

654 ANDRIEN. At least one sermon on the Sacrament from the spiritual father [should be given] on the first day. The speaker notes that these regulations are newly established, but confirm the old custom. For it is the custom that a priest, chosen for a certain number of years, should preach in the church on the occasion of the Sacrament. This priest is usually chosen by the sodality, not by the parish priest or the chapter, but is approved by the bishop; "Since this Congregation of St. Monica intends, according to custom, to place the Blessed Sacrament in the Forty Hours devotion on the next fourth Sunday of Lent, we pray Your Eminence to approve the choice of the speaker, who will be the priest, Father Francesco Scaramella. – We grant the congregation the requested privileges" (years 1864, 1860, 1863, 1865, 1896). They object: "While the Augustinians were in Andria, their president, not the moderator of the sodality, celebrated this Sacrament." The speaker replies: "The president of the Augustinians celebrated it no

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differently than when requested by the members of the sodality, since, if a moderator of the sodality prevented him from celebrating, he would have been prevented." There is written testimony: "It is made known to the Brotherhood that, since our spiritual father is ill and cannot perform his duties during the upcoming Forty Hours, it is proposed to pray this Reverend Prior of the Venerable Augustinians to himself expose the Most Holy Sacrament" (March 8, 1693). They add: "However, after the Augustinians were removed, and another was appointed in their place, the chapter asserted its right to celebrate." Therefore, from that time on, the sodality bore the expenses for the celebration; indeed, the sodality announced the celebration as before; but the president of the chapter celebrated it. The speaker replies: "If this were true, this matter should have been initiated not by the parish priest, but by the chapter. If the chapter asserts its right, then there is no reason why the chapter, and not the parish priest, should pursue this matter." Nor should the parish priest be believed to be acting justly, because today the administration of the church is assigned not to the chapter, but to the parish priest." [Is the rectory of the Church of St. Augustine included?]

[*Latin ed. p. 655*]

ANDRIEN. To the Parish Priest, in such a manner that the administration of offerings and the collection of alms may pertain to him? - Affirmative in all things, except for alms and offerings which are offered directly and specifically to the Clergy. (S. C. C. in Andrien, June 2, 1863, question 1.) - For, since the governance of the Church has been assigned to the Parish Priest, it has been granted to the Chapter that the sacred rites which it has hitherto celebrated, and which it will celebrate in the future, be performed. - "Can the Clergy in the aforementioned Church perform the triduums, novendial services, supplications, and sermons, as before, and celebrate Mass on the fifth day of the week, in the Feast of the Lord, and bless the baptismal font on Holy Saturday?" "Affirmative, without exception... except for the parochial jurisdiction, and except for the celebration of Mass on the fifth day of the week, in the Feast of the Lord, and the blessing of the baptismal font on Holy Saturday." (Ibid., question 5.) But those things which they present as objections, the speaker declares, do not accord with the truth. - The Chapter, whenever it celebrated the sacred rite, celebrated it so many times, at the request of the sodality, receiving a payment from the sodality. - "We, the undersigned canons of the Collegiate Church of the Most Holy Annunciation of Andria, testify that since our Chapter has functioned in the Forty Hours devotion, which has been held from ancient times by the Confraternity of St. Monica in the church of St. Augustine, where the aforementioned Chapter resides, it has not been because of an obligation arising from our statutes, or a right arising from the Rectory which the Chapter had of that church, but solely because we were invited

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by the Rector of that Confraternity, who, in order to ensure that the function would be carried out with greater splendor and decorum, on many occasions, in addition to the usual expenses borne for the feast, also offered to the aforementioned Chapter a sum to be distributed among the canons present at the function." Those things which have been said concerning this sacred rite, the speaker notes, are certainly applicable to other sacred rites, concerning which we are disputing today. - Indeed, from the very beginnings of the sodality, the sodality has arranged for everything: it has celebrated through a priest, chosen by itself, who performs the service for a fee.

[*Latin ed. p. 656*]

656 ANDRIA. The defender argues that the matter should be discussed according to the constitutions; furthermore, the accepted and expanded codes provide significant evidence. DEFENSE OF THE PARISH PRIEST. On the contrary, the patron argues that no one has the right to appear in court unless they possess a legal person. Since the association is denied this in the present case, he maintains that it should be rejected from the outset. The parish priest of St. Augustine, scarcely having been summoned to court, openly declared and maintained that he could not, nor would, engage in a dispute with the pious Association of St. Monica, as if it were an illegitimate adversary, because, in truth, it was merely a lay body, and any action taken against him should be dismissed. The lawyer argued that the association was merely lay, citing a document from which royal approval was requested in 1785. He argued that the association only acquires a legal personality within the Church through canonical erection, that is, it is constituted in its legal existence, as De Luca aptly notes in *Praelectiones Iuris Canonici*, Book on Ecclesiastical Matters, Title XXIII on Hospitals and pious institutions, page 345, paragraph 380: "Canonical erection, which is an act of legitimate authority by which a confraternity is constituted in its legal existence, so that it acquires a moral personality within the Church." Furthermore, according to the patron, it is futile to present a certain decree, issued, as it is claimed, on February 19, 1628, by the Most Reverend Alexander Strozzi, then Bishop of Andria, in order to demonstrate that the association is not without canonical erection, and therefore does not enjoy a moral personality; for, for many reasons, this should be considered apocryphal, or at the very least, invalid or insufficient. Firstly, the speaker points out that this alleged act of canonical erection, said to have occurred in 1628, clearly contradicts the explicit declaration made by the association itself in a pleading, or memorandum, when it was seeking a civil foundation. Secondly, the aforementioned decree is judged apocryphal by the speaker,

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because, in some way,

[*Latin ed. p. 657*]

ANDRIEN. He observes that nothing is presented to corroborate this, except the testimony of a certain scrivener, Baldino, from which it is alleged that the aforementioned Bishop's signature was affixed to it; and indeed, the scrivener himself does not testify to this with his own knowledge, but only according to the bare assertion of the Brothers of St. Monica, which cannot be considered reliable. Then, he points out that this document deserves no credence, not only because of the lack of any proof of its authenticity, but also because of the lack of any proof of its existence; for, if indeed such a decree had been issued, its original should be preserved in the Episcopal Archive, or by the Society of St. Monica, and could therefore easily be found, which is not the case. And indeed, the following is stated in the copy presented by the Society: "This present copy has been extracted from its own original, which is found in a certain ancient book of the Venerable Society of St. Monica, within the Venerable Convent of St. Augustine, of the Order of Hermits, of this city of Andria, which was shown to me by the confreres of said Venerable Fraternity, and returned to them, with which, after comparison, it agrees, always preserving the better version, etc. And as a guarantee, I, Michael Baldino, of Andria. Given at Andria, on the first day of the month of April, in the year 1713. R. Baldino." Thirdly, the advocate notes that the aforementioned decree suffers from an intrinsic nullity; for, when it is a question of the erection of a fraternity within a church of regular canons, it is well known that, by apostolic privilege, this right belonged and belongs only to their Superiors, and consequently, in the case in question, it was and is the Superiors of the Order of Hermits who should have overseen the foundation of the Society, according to the tradition found in Ferrara, in the words "Confraterna," title 1, number 7. To this, the advocate recalls the Constitution 115 of Clement VIII, dated December 16, 1604, which begins: "Quaecumque" ["For the rest, brethren, whatsoever things are true, whatsoever modest, whatsoever just, whatsoever holy, whatsoever lovely, whatsoever of good fame, if there be any virtue, if any praise of discipline."], and which stipulates, under penalty of nullity, that all fraternities and congregations, wherever they are erected and instituted, or are to be erected and instituted in the future, must use a specific formula, expressly set forth in the same Constitution, volume XXXIII, page CCCXCV, number 42.

[*Latin ed. p. 658*]

658 ANDRIA. It was decreed, as it ought to be, so that it might validly stand (there): "Finally, We decree and ordain that Confraternities and Congregations, wherever they may be located, which have been erected and established with any authority, as is fitting, and with which the

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aforementioned communications have been made, and with any of the aforementioned Orders, Religious Institutes, Archiconfraternities, and Congregations, shall be obliged to obtain, within one year, if they are in Europe, or within two years, if they are outside of Europe, from the date of publication of these documents in the Roman Curia, Letters for new erections, establishments, communications, and aggregations, according to the form most recently approved by Us; otherwise, after the said time has elapsed, the erections, establishments, and all communications of privileges, faculties, indulgences, other spiritual graces, and indulgences, and the aggregations thereof, which have been granted to them, shall be considered to have no validity or force, and shall be revoked and annulled by the very fact." And, truly, the speaker continues, after this time, no title of erection remains, either on the part of the Order of Saint Augustine, or on the part of the Bishop of Andria, as is demonstrated by the fact that occurred in the year 1787, in which, after a very serious controversy arose before the Metropolitan Curia of Tranen, between the Reverend Fathers of the Eremite Order and the Society, which today is in dispute regarding the erection of a machine for the function of exposition of the Most Holy Sacrament in the form of 40 hours, the aforementioned Fathers solemnly declared that the aforementioned Society had no right to carry it out, since it was a simple lay congregation freely accepted by them, and therefore, at any moment, they could have expelled it from the Church. Because, as We have stated above, the opposing members claim that they have either Visitations made by the Bishops to the Confraternity for a time, or permissions obtained from them each time for carrying out the function of exposition or reposition of the Most Holy Sacrament in the form of 40 hours, and other similar things; the speaker replies that the Bishops, even as delegates of the Apostolic See, have the right to visit hospitals and colleges, and...

[*Latin ed. p. 659*]

ANDRIEN; 659, and confraternities of laymen, in matters concerning the administration and fulfillment of duties, or which have relations with confratres, as is found in the aforementioned Constitution of Clement VIII, sanctioned in Chapter 8, Session 22, concerning the Reform of the Council of Trent, and which the Holy Congregation of Bishops and Regular Canons has repeatedly taught, as can be seen in the documents of "S. Angelo, August 2, 1581; in Bisaccien, June 12, 1592; in Canen, February 22, 1595; in Thelesina, August 20, 1569." Indeed, even Bishops, it is stated, can visit confraternities which, although not originally founded under the direct patronage of the King, are nevertheless under the King's immediate protection. And the reason for this, (as Ferrarius notes), is that the Council, in Chapter 8, Session 22, concerning the Reform, in which pious institutions existing under the protection of Kings are mentioned, in no way dimin-

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ishes or detracts from the jurisdiction of the Ordinary with respect to such institutions, nor does it grant any new exemption to these institutions, but only preserves, if they previously had one, as the Holy Congregation of the same Council has repeatedly declared, and as has been carefully examined in Naples, on December 12, 1602. As for the licenses for the functions of the Most Holy Sacrament obtained from the Bishops of Andria by the Society, it is stated that a license is not required for one who has the right to do something. Therefore, if the Society has requested a license from the Ordinary to perform the aforementioned sacred functions at any time, this fact demonstrates that it has no right or power to celebrate them without the consent of the Bishop, because in parochial churches, the exercise of these functions strictly belongs to the parish priest. Nor can the Society, according to the intention of the advocate, base its claim on the aforementioned grounds, in order to establish both the right to celebrate these functions in a parochial church, and that its canonical erection should be presumed. For it should be noted that the force of prescription or possession...

[*Latin ed. p. 660*]

660 ANDRIA. And the efficacy in obtaining a title consists in presumption; therefore, if it is either established from the beginning, or the title by which assistance is sought is either ineffective, or defective, or is, by itself in any way, null, the presumption of the title is not upheld, and it is the established rule that a lapse of any length of time, even, as we often say, a thousand years, does not affect the matter; as all Doctors teach, and as has been declared by the Rota, no less than by the Sacred Congregations, to be of no weight, the forensic dictum prevailing: "it is better not to have a title, than to have a defective one." Finally, referring to the opinion pronounced by the very Curia of Andria in the case between the Confraternity of the Immaculate Conception and the parish priest of the Church of the Blessed Virgin Mary, greeted by the Angel, confirmed by the Sacred Congregation of the Council, and in which the Society of Saint Monica seems to place the foundation of its intentions, the advocate, from a document distributed on April 28, 1893, deduces that all the questions in that case were lacking regarding the canonical erection of that Confraternity; on the contrary, in the present case, these are entirely desired. Furthermore, it was equally certain, in the case of the Confraternity of the Immaculate Conception, that the church, in which these functions were customarily performed, belonged to the Sodalitas before the church was elevated to the rank of a parish, so that it must truly be admitted that the parish is in the church of the Confraternity, and not that the Confraternity was erected in a parish church. Therefore, the advocate concludes, if it was beyond doubt in the case of the Confraternity of the Immaculate Conception that its canonical erection could not have been disputed, since it was fully established; if it was equally certain that the church, which originally belonged exclusively

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to the Sodalitas, was later elevated to the rank of a parish, and therefore the parish is in the temple of the Sodalitas, and not the Sodalitas in the parish church; since these two facts, which are substantial, are entirely lacking in the case, the opinions pronounced by the episcopal Curia of Andria...

[*Latin ed. p. 661*]

ANDRIEN. 661, and confirmed by the Sacred Congregation of the Council, the application in the present controversy concerning the Sodalitas S. Monicae cannot be sustained. The advocate, in his argument for the second doubt, notes that the parish priest, within his own church, not only possesses, by law, the intention to administer the sacraments and to collect offerings, but also that it pertains to him to sing the Mass and to bless the people with the Venerable in the parochial church; indeed, even within the entire boundaries of the parish, as is stated in Monacel, *Formularum Legum*, Vol. 2, Title 13, Form 1, No. 59; Pignatelli, *Consultationes*, 103, No. 16, Vol. 10; and, therefore, all rites, blessings, and functions pertain to those who have care of souls, as Bassi states in *De Sodalitatibus*, Question 12, No. 10. And therefore, although such functions are not enumerated among the parochial rights, they nevertheless pertain to the functions of the parish priest. Monacel, *loc. cit.*, Nos. 51 and following. Furthermore, the right to perform all functions, even those not strictly parochial, within his own church, belongs to the parish priest, not only by virtue of his office as parish priest, but also by virtue of his office as Rector of the same church. "We have," it is taught by De Fargna, *De Jure Patrono*, Part 1, Canon 4, Chapter 9, Nos. 4, 6, 9, etc., "the constant opinion of all doctors, unanimously affirming that it pertains to the rectors of these churches to perform blessings and to carry out other functions, not parochial." Therefore, the advocate argues, whatever sacred functions the Sodalitas intends to perform in the aforementioned church, whether they are parochial or not, it is the law that these functions have always belonged and do belong exclusively to the parish priest, as De' Luca teaches in *Praelectiones Iuris Canonici*, Book on Ecclesiastical Matters, Title XXVI, page 348, No. 382 - *ibidem* - "Concerning Parish Priests: Confraternities established in a parochial church, or in chapels, whether public or private, annexed to a parochial church, depend on the parish priest with regard to all ecclesiastical functions, even those not parochial, S. C. R., Decree of December 10, 1703, Nos. 1 and 2, and also the Sacred Congregation of Rites decreed in the Decree of the City and the World, June 12 of the following year, 1704." And if, the advocate continues, in some sacred functions, such as...

[*Latin ed. p. 662*]

662 ANDRIEN. For example, concerning the exposition and reposition of the Most Holy Sacrament according to the forty hours devotion, the Sodalitas, on any occasion, has obtained permission from the Ordinary;

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it is stated that such permissions are to be understood without prejudice to the rights of the parish priest, or to his jurisdiction. Furthermore, in a more serious matter, Pignatell. Consult. 68 states: "And so it is, that it should not be understood that, when the Ordinary establishes such sodalities, the sacerdotal and solemn functions are to be celebrated by the sodality's chaplain or sacristan, even if the parish priest consents, within whose church or parish the chapel or oratory or church exists." This is most clearly demonstrated, the speaker argues, by the very purpose and natural aim of all pious sodalities, as explained by Benedict XIV, when he states: "Confraternities are undoubtedly established not to exercise sacred functions, nor to be incorporated into the ecclesiastical hierarchy, but to receive acts of penance that are useful to them, and to perform works of mercy for their neighbor." Inst. Eccl. 105, § 3, n. 92. Then, discussing in particular the individual disputed functions, the speaker, with regard to the exposition and reposition of the Most Holy Sacrament according to the forty hours devotion, states that no one can deny that this sacred function pertains to the parish priest, as well as to the rector, within his own church. Nor, according to the advocate, does the Society of Saint Monica have to contribute anything towards the expenses. For the greater expenses are borne by the parishioners, as well as by the revenues of certain legacies left to the church for this purpose. Thus, it was judged by the Sacred Congregation of Councils in Naples on May 18, 1602, stating: "And everything concerning the worship of the Most Holy Body of Our Lord according to the forty hours devotion, and similar devotions, pertains to the parish priests, and not to the chaplains." And it is noted that in this case, it was not a question of a parish church, but of those that existed within the limits of the parish, and the reason is that such sacred functions are of the people, and not of the confraternities. This, indeed, is certain in law, custom, and practice.

[*Latin ed. p. 663*]

ANDRIA. The Most Reverend [Bishop] fully responds, and the patron [Saint] intercedes. Indeed, many qualified witnesses, such as the Canons of the Chapter of the Most Holy Virgin Annunciated, who perform the sacred offices in the Church of Saint Augustine, and who, under the sanctity of oath, did not hesitate to testify: "That from ancient times it has always been the Prior of the Chapter of the Most Holy Annunciation, and never the Rector of the Congregation, who has performed the Office of the Forty Hours in the Church of Saint Augustine in Andria, on the fourth Sunday of Lent, until the year 1883. That from that time onward, since the Parish Priest was declared, by the Holy Congregation of the Council, Rector of the Church of Saint Augustine, the aforementioned Office was performed by the Parish Priest, and if at times the Chapter or the Rector of the Congregation performed it, this occurred by the permission of the Parish Priest.

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This is so true, that, not granting permission, for several years, the Chapter, with its Prior, did not even participate in the aforementioned Office performed by the Parish Priest." The same is testified by three Reverend Parish Priests of the City of Andria, namely, the Reverend Father Nicholas Fatone, Parish Priest of the Church of Saint Dominic, and the Reverend Father Francis Decorato, Parish Priest of the Church of Saint Francis of Assisi, and the Reverend Nicholas Zinni, Parish Priest of the Church of the Blessed Virgin Mary Annunciated. Furthermore, many confreres, having issued a protest to the Episcopal Curia to avoid this dispute, testified: "That as in the past, not through the Rector of the Congregation, but through the Chapter, which was considered the Head of the Church, we have performed those few functions consisting in the celebration of the Forty Hours on the fourth Sunday of Lent." With these things noted, it is necessary to examine the following concerning Doubt I: Whether the judgment of the Episcopal Curia of Andria, of the 11th of February, 1899, should be confirmed or rejected in this case, and to the extent that it is negative concerning the first part and affirmative concerning the second.

[*Latin ed. p. 664*]

664 ANDRIEN. Concerning the specific functions of the Sodality, namely, the exposition of the Blessed Sacrament for forty hours; the annual commemorations for deceased members; the feast of Saint Monica and the Virgin of Consolation, and also the fourth Sunday of each month, these pertain to the Parish Priest, or rather, to the Rector of the aforementioned Sodality, in such cases, etc. RESOLUTION. The Sacred Congregation, after deliberation on January 26, 1901, decided to respond; To I. To confirm the opinion. To II. That it pertains to the confraternity under the authority of the Parish Priest, according to the resolution of the Sacred Congregation in Andrien, of September 9, 1893. ARETINA DISTRIBUTION OF CHORAL FEES. February 23, 1901. Session 23, chapter 3, concerning the registry. SUMMARY OF THE MATTER. In the Chapter of the Cathedral Church of Arezzo, in addition to the aforementioned canons of Massa, four dignities are listed, of which the highest is held by the Praepositus (Prefect). The endowment of this office, according to tradition dating back to the year 1472, was separated from Massa by the capitular decision, so that the revenues of this endowment are no longer derived from that Massa, but are subject to penalties for absence, which are observed in this chapter in three classes: namely, the ordinary penalty, the solemn penalty, and the penalty concerning processions; the penalty itself, which is paid by the absent person, varies according to the amount of income; and this measure is determined according to the revenues of the benefice. Therefore, the canons of Massa of each kind satisfy the penalties in such a way that those who hold the endowment pay a penalty half that of the canons of the Praepositus, while the Praepositus, on the contrary, pays a penalty twice

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as high as that of these canons. When this system of penalizing absences began, it cannot be certainly verified from the documents presented, but from...

[*Latin ed. p. 665*]

ARETINA 665: It is known that as early as the year 1651, the chapter had established a custom whereby deductions were made from the income, exceeding that third part of the revenues which the Council of Trent, in Session 23, chapter 3, requires to be distributed to the poor. Furthermore, the same Council permits that this amount may be exceeded, either due to chapter statutes or established customs, but does not allow it to be less than one-third. However, long ago, almost two centuries prior, a custom had arisen within the chapter whereby those absent, due to three months of vacation, paid nothing of their revenues; consequently, they benefited from the daily distributions just as those present in the choir did. When the Sacred Congregation of the Council (S. C. C.) became aware of this in the year 1892, it, as was fitting, condemned it as a corruption of the law, and by a decree of August 20 of that same year, ordered that the law of Trent be observed, which was done. Subsequently, as a result of the observance of this decree, a change was introduced such that all distributions, which the chapter members who are not present, do not benefit from today, are increased for each diligent member serving in the choir (for previously, this right of increase was not observed), with the exception of the deductions which the Prefect pays for absences, which, according to the decree of the Bishop from 1894, are allocated to the treasury of the Church. Therefore, the administrators of the treasury's patrimony, after the publication of this decree, insisted that the Prefect pay a sum of money corresponding to the fines for absences which he had not paid since 1892. The Prefect, however, declared that he respected the decree of the Sacred Congregation of the Council from 1892, as it was in accordance with the law and entirely proper; but, because he himself, during the time of his vacation, must pay a considerable sum, double that of those present in the choir, and because this sum exceeds that third part of the revenues which the Council of Trent ordered to be destined for daily distributions, he argued that he was obligated only to observe the law of Trent, which he had been ordered to enforce by the decree of the Sacred Congregation of the Council. The canons, administrators of the treasury, opposed this, and brought the matter before the Bishop, who decided the matter by a decree of July 10, 1899, condemning the Prefect to pay the fines.

[*Latin ed. p. 666*]

666 ARETINA, absent, in the amount of double, just as before. The decree will be reported below; for the moment, I will include the observations of the Prefect, who today is dealing with the appeal before the Sacred

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Congregation. Synopsis of the Discussion. First of all, the Prefect recalls the text of the Council of Trent, in session 23, chapter 3, which reads as follows: "The Holy Synod decrees that in Cathedrals and Collegiate churches, where there are no daily distributions, or where they are so meager that they are barely noticed, one-third of the fruits and revenues, and of all other income, whether from dignities or from prebends, benefices, portions, or offices, must be separated and converted into daily distributions, which shall be distributed proportionally among the dignitaries and those who participate in divine services, according to a division to be made by the Bishop, also acting as the Delegate of the Apostolic See, in the initial deduction of the fruits: provided, however, that the customs of those churches shall be observed, in which those who do not reside or do not serve receive nothing or less than one-third." Nevertheless, the Prefect argues that there is no place for this last exception today, namely, that the custom of allocating benefices to daily distributions in a measure exceeding one-third should be approved, but rather that the law of Trent, as mentioned in the chapter, should be reinstated. Furthermore, the Prefect notes that in the Council of Trent, in session 22, chapter 3, there is another text more closely related to the distinction between dignitaries and the common body, as Fagnanus states in chapter "Concerning non-resident clerics." This text reads: "The Bishops, also acting as Delegates of the Apostle, may divide one-third of the fruits and revenues from all dignities, prebends, and offices in Cathedrals and Collegiate churches, and assign it to distributions at their discretion, so that those who hold them, if they personally perform the service that belongs to them according to..." DEFENSE OF THE PREFECT.

[*Latin ed. p. 667*]

"Those Bishops who have not, on any day established, fulfilled the form prescribed by them, shall omit the distribution of that day, nor shall they acquire dominion in that manner, but the Fabric of the Church, to the extent that it needs it, or to another in its place, shall be applied at the discretion of the Ordinary." Truly, the prescriptions there published pertain to canonical chapters distinct from the common mass, and from this, the Prefect derives that he must provide his share to this number, and hence is subject to the benevolent discretion of the Ordinaries, as the Council says: "The distributions of the Bishops are to be assigned at the discretion of the Ordinaries." Indeed, there is not contained there a clause which allows the Bishops to assign a quantity greater than one-third in the distributions. The Prefect believes that these documents extracted from the Chapter Archive are most relevant to the matter, by which it is clear that the canons recognized that only one-third of the revenues should be added to the distributions. "Meanwhile, from Buschbell, I shall be able to acquire those weapons which, without even realizing it, my canons of Massa provide. And indeed, they them-

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selves, through their predecessors, embraced and signed my thesis over the course of two centuries in the founding instruments of new canonical chapters and outside of Massa, as the following particulars clearly demonstrate: " 1. From the Act of Foundation of the Natti Canonical Chapter, stipulated in the year 1627: - "... And furthermore, they shall deposit each year in the month of August in the hands of the aforementioned Treasurer and in the granaries of the aforementioned Chapter, separately, sixty-two grains of the aforementioned measure (that is, the old Aretine measure equivalent to 25.576 liters for each staio) for the purpose and occasion of serving the aforementioned Church, according to the Constitutions and ordinances of the aforementioned Chapter (Trid.), to be divided into so many portions and distributed to those Lords Canons who participate in the service of the aforementioned Church, in the case that they themselves do not serve, as they wished to serve, and thus..."

[*Latin ed. p. 668*]

668. ARETINA, as well as the other Canons of the same Cathedral, are subject to, and bound by, the aforementioned regulations, with the addition that the remaining portion of the distributions, as mentioned above, shall be returned to the aforementioned Canon, and they wished to return it.

2. From the Act of Foundation of the Redi Canonry, which occurred in the year 1669: "If it should happen that the other Canons of the aforementioned Canonry are also subject to the aforementioned service (that is, the service of Princes or Prelates), they may do so, but they must pay the dues, which, not only in this case, but in any other that might occur, shall be levied for a full year on one-third of the revenues of the aforementioned Canonry, after deducting first the remuneration for the celebration of Mass, which is taxed as follows: thirty scudi."

3. From the Act of Foundation of the Tortelli Canonry, which occurred in the year 1674: "He shall be obligated to pay the dues in the manner and form in which the other Canons of the Mass are obligated, and for this purpose, he shall deposit one-third at the discretion of said Chapter, and these dues shall not be expected to be deposited in the sacristry."

4. From the Act of Foundation of the Giannerini Canonry, which occurred in the year 1697: "Furthermore, the aforementioned parties agreed that the Canon who shall be in office at the time, with the exception of the aforementioned Mr. Alessandro, the founder, shall, from the day he takes possession of said Canonry, according to the style and laudable custom of said Riho Chapter, deposit with the Chamberlain of the same Chapter one-third of his distributions or Prebend, in order to pay the dues that he may incur at the end of the year."

5. From the Act of Foundation of the Guidi Canonry, which occurred in the year 1854: "Each Rector of said Prebend shall be obligated to pay the dues according to the provisions of the Holy Council of Trent, in the

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amount of one-third of the net revenue of said Prebend."

Similarly, my thesis is confirmed by the Rescripts constantly issued in this matter by the Holy Congregation.

[*Latin ed. p. 669*]

ARETINA 669, decrees of the Council, of which the following are relevant: that of April 23, 1679, and the other of June 4, 1707. The first, addressed to the Archdeacon Francesco Bacci, who requested to be excused from his duties in the choir due to personal affairs, reads as follows: "With paternal kindness, We grant that, given the circumstances you have truthfully reported, for the next six months, at the discretion and with the knowledge of the Bishop of Arezzo, you may be absent from your residence, and in the meantime, you may receive two-thirds of your distribution, provided that all the revenues of the Archdeaconry are included in said distribution; the third part will be withheld and will accrue to those who serve. " The second, addressed to Canon Cosimo Ricoveri, Secretary of the Embassy of Cardinal Pignatelli, who requested permission "to receive the fruits of his canonry while absent," reads similarly: "With paternal kindness, We grant that, given the circumstances you have truthfully reported, for the next six months, at the discretion and with the knowledge of the Ordinary, due to the aforementioned reason, you may be absent from your canonry residence; and in the meantime, you may receive all the fruits of your canonry, with the exception of the daily distributions. If all the fruits consist of said distributions, or if the revenues of the prebend do not amount to one-third of the distributions, you shall receive two-thirds of the distributions, or the prebend and the distributions combined, respectively, with the exception of one-third, which will accrue to those who serve." In the records of the Apostolic Visitation made to the Cathedral of Arezzo in the year 1583, nineteen years after the confirmation of the Holy Council of Trent, it is written: "Concerning the dignity of the Praepositura, which, as has been heard, has sufficient revenues and therefore does not participate in the ordinary daily distributions, We order that one-third of the fruits and revenues of said dignity be converted into distributions, and that these be assigned to the same Lord Praepositus, provided that he duly performs the service appropriate to his position in the Church, according to the form prescribed by the Bishop each day; otherwise, the distributions will be withheld from him in proportion to the time during which he failed to perform the aforementioned service."

[*Latin ed. p. 670*]

670 ARETINA, and to apply them according to the form of the Council, Chapter III, Session XII. "In the Acts of the Pastoral Visit made to this very Church by Monsignor Bishop Salviati in 1638, it is written: 'He gave a sermon and was encouraged to conduct himself well and commendably

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in all things, and especially concerning the service of their Church and those matters pertaining to divine worship, and other duties, and until another is obtained by Apostolic authority, and their service is diminished, as it has been treated and negotiated with the Lords Deputies appointed by the aforementioned Canons and Chapter, and he promised to offer all assistance and favor to them regarding the aforementioned matters, and decreed and ordered that the service be performed according to the Decree of the Synodal Constitutions and the form prescribed by the Holy Congregation. And for this purpose, through the Lord Proposit of the aforementioned Church, one-third of the fruits of the aforementioned Propositorship was to be deposited in the hands of the Most Reverend Lords, to be truly and effectively distributed in the daily distributions and benefits, according to the service to be rendered by him, etc.'"

RIGHTS OF THE ORDINARY AND THE CANONS. On the contrary, in the Episcopal Decree, the arguments presented by the Proposit are stated as follows: "Considering, in principle, that the aforementioned fine, which is found described in the Registers of the Chapter Archive, must have been ordered by the competent Ecclesiastical Authority, since it is not likely that the Chapter would voluntarily assume such a heavy burden, when it had not been imposed upon them by the Superior." And then there is the fact that mention is made of such an imposition in various Chapter deliberations of the years 1651, 1652, 1653, and 1675, in which it is stated that the tax for the distributions for the three points, in which the office of the cathedral is divided, was established by the Holy Congregation. In the year 1653, the Canons assembled in Chapter, while...

[*Latin ed. p. 671*]

ARETINA 671: They sought a reduction of the duties, but decided to maintain the distributions established by the Congregation: It was decided that the distributions previously established by the Holy Congregation should not be reduced in any way (Deliberations, July 21-28). In a subsequent deliberation from the year 1675, it is found that: Since the distributions already assigned by the Holy Congregation are not equivalent to the continuous service to be rendered to the choir, the canons appeal to the Holy Congregation, requesting that it deign to re-examine the form of service proposed by them, which, however, was not approved, as evidenced by the Decree of May 25, 1675, which states: "The Holy Congregation, after considering the arguments presented on both sides, decided to adhere to the decisions already made." Now, from all of this, it must be inferred that the aforementioned fine for the canons is double for the Propositus, and that this is the execution of what is prescribed in the Decrees of January 15, October 7, and August 16, 1596, issued by Monsignor Bishop Usimbardi, in accordance with the Decree of the Holy Congregation of Bishops and Regulars of December

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18, 1595, and confirmed in the Synod held by him (Syn. Usimb. De Chori disciplina), with which decrees proportionate distributions are assigned to the individual hours. Considering now, hypothetically, that even if the fine, in the manner and quantity respectively indicated, had not been imposed by a superior authority; the practice of it is so long-standing, so constant, and so burdensome, that it must be considered obligatory. Indeed, it is ultra-secular, or rather, it is of such antiquity that it is almost beyond memory, and from the records of notes that have been preserved in the Capitular Archive from 1746 to the present day (the earlier records are missing), it appears that from that time until now (which is more than 150 years), it has always been applied not only to the canons of Massa, and therefore to the same Conti, when he was a canon theologian; but also to the Rectors of the Propositura, Conti included, although in these last centuries, in nella.

[*Latin ed. p. 672*]

672 In ARETINA, the Propositura, which for a very long time had been of the class designated "massa," has ceased to be so, and likewise the Proposto for the time being, and the Conti, have paid double the amount of a simple Canon of "massa," as they receive double in the funeral distributions, both ordinary and extraordinary, which occur during the year. "Now, all Canonists and Doctors teach that a long-standing and constant custom, especially if it involves a serious inconvenience, as is the case with the custom that is the subject of this examination, has full force to obligate. Furthermore, the obligatory force of this our custom increases when it is related to Chapter III, Session 21, of the Council of Trent, concerning Reforms, which preserves all customs in churches that pay a fine exceeding one-third of the revenue; thus, either this memorable tax dates back to the Council of Trent, and is maintained by its letter and spirit, or it is subsequent, and must at least be considered in accordance with its spirit. From this, it is evident that the appeal made by the Proposto Conti to this Chapter, to prove that he is obligated to pay the tax in proportion to one-third of the revenue of his prebend, does not benefit him, but rather harms him; for this Chapter establishes distributions in the proportion of one-third, but only hypothetically, that is, for churches where there are no distributions, or where they are so meager that they are likely to be neglected, and at the same time preserves the customs of churches where more than one-third is paid or lost. "Nor do the two rescripts of the Holy Congregation of the Council, dated April 23, 1679, and June 4, 1707, support him, to which he also appeals, because these are nothing more than special graces which, in every remaining instance, leave things in the state in which they are. "As for the founding documents of the Canonries *extra Massam*, it should be noted that these are particular agreements which do not alter the general state of affairs; indeed, despite these documents, the existing

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practice remained unchanged, both for the Canonries of "massa" and for those *extra Massam*."

[*Latin ed. p. 673*]

ARETINA 675. The Proposto. Indeed, while the Canonici extra Massam were subjected to various penalties, the Canonici di Massa and the Proposto continued to be penalized according to the prevailing tax. "B. Even today, it cannot benefit the Proposto Conti for the purpose he has in mind, either the order issued during the visitation of Monsignor Salviati in 1638, which stipulated the deposit of one-third, nor the provision contained in the Apostolic Visitation of 1583, which mandated the conversion of one-third into distributions; that is, neither the order of Salviati, because depositing one-third as a guarantee of payment does not imply that this must be done in proportion to one-third; nor that, the provision of the Apostolic Visitation, because even if the Apostolic Visitor had been correctly informed, his provision must be considered modified by the tax subsequently imposed by the Holy Congregation; Decrees, April 8, 1676, and the Usimbardi Synod - On the Discipline of the Choir -. In any case, neither of these was ever enforced, although the Rectors of the Propositura had every reason to invoke their enforcement. Instead, despite the acts of the Apostolic Visitation and of Monsignor Salviati, despite the aforementioned decrees of the Holy Congregation of the Council, despite the attached foundations of the Canonici extra Massam, the Proposto, even after his prebend ceased to be of the Massa class, never paid the assessments in proportion to one-third, but rather, although in quantity and tax, it was repeatedly mentioned, that is, double that of a simple Canonico." "Nor is it valid to say that the aforementioned tax was linked to the practice of profiting from the distributions during the three conciliar months, as if one were considered legitimate, the other must also be considered legitimate; or, if one is rejected, the other must also be rejected, because: 1. They are distinct, and have no necessary connection between them; 2. That is, the tax, even if it was not from the beginning an imposition, but a simple custom, it encourages diligence, favors divine worship, and is in accordance with the spirit of the Council of Trent; this, on the other hand, harms worship, or Acta, Vol. XXXIII, page CCCXCV, 43."

[*Latin ed. p. 674*]

674 ARETINA, and it has always been disapproved of, as an abuse and corruption, by the constant decisions of the Sacred Congregation of the Council, especially by that issued for our Cathedral Chapter on August 20, 1892. For these reasons, even omitting other considerations that could be made, with all our authority, we declare, judge, and decree that the Rector of the Cathedral Propositorship, currently Reverend Doctor Giuseppe Conti, is obligated to pay the fines for absences from the choir in the amount

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of double that of a simple Canon of Massa. Furthermore, having seen the Decree of August 22, 1894, issued by Monsignor Giuseppe Giusti, Apostolic Administrator of this Diocese, we order the aforementioned Propositore Conti to pay to the Cathedral Sacristy, based on the aforementioned, all the fines that are imposed upon him.

The Chapter members, who have obtained a judgment in accordance with their intentions in their deliberations, develop the arguments more broadly that were considered in the judgment; the sum and essence of which is: the custom, at least for 150 years, has been observed in the Chapter, and has been observed by the aforementioned Propositore himself, to the extent that he pays a fine twice as large as that paid by other Canons of Massa; and that custom constitutes a right no less firm than the written law itself. Nevertheless, they also contend to refute the historical-legal arguments presented by the Propositore, and they cite the Capitular Constitutions of 1263, in which it is stated: "But if the Propositore is absent at Matins, Mass, the conventual Mass, etc., he shall pay double the aforementioned penalty, so that, just as he enjoys a double offering, he shall be subject to a double penalty." This document, which the Chapter members object to, at least proves that the custom has had its beginning from ancient times, although, with the passage of time, it has not always remained constant. Regarding the records of the foundations of various canonries, which the Propositore cites, the Chapter members point out that these express special agreements, which do not invalidate the established right.

[*Latin ed. p. 675*]

ARETINA 675 and those who resided there were exceedingly mild towards the founders, so that others might be attracted. Furthermore, in the Rescript of the Sacred Congregation of the Council, cited above, it is noted that these constituted a singular right, and therefore should not be cited as precedent, and that they contained general formulas conceived for various cases, to which they are applied as expressly taught by the tenor of the cited Rescript of June 4, 1707, where it is cautioned, after permission to be absent has been granted, but with the loss of distributions: "But if all the fruits consist of two parts out of three of the distributions respectively received, the third part lost shall be added to those who serve." Finally, other documents in which mention is made of the third part to be set aside in the distributions, especially the documents of the Sacred Visitation, which concern the third part to be set aside by the Provost, observe with such care that they point out that these documents, as far as the knowledge of facts is concerned, may possibly contain an error; but even if no error has intervened, they note that the obligation to set aside corresponds to a kind of pledge, which is given as security for the integrity of the debt; but the part deposited given to the creditor does not represent the entire debt to be paid to the creditor. In summary, they again affirm that all such documents

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are hypothetical, while the contrary argument of custom is certain and evident in every respect in this matter. Furthermore, the following points must be considered in relation to the matter at hand. Indeed, the cited chapter 3, session 22 of the Council of Trent, refers to prebends which are distinct from the common fund, as the Sacred Congregation of the Council decided in Caurien, November 7, 1621: "Where in the Church there are dignities which have revenues distinct from the capitular fund, of which a certain part has been assigned for daily distributions, according to the disposition of the Holy Council of Trent in chapter 3, session 22, concerning reforms, the Sacred Congregation of the Council has decided that such distributions which are lost by those who do not perform the corresponding service, should first be applied to the fabric of the Cathedral, as long as it is in need, and then it is in the power of the Bishop to apply them to another pious institution, at his discretion."

[*Latin ed. p. 676*]

676 ARETINA: In hoc decreto, quidem, cavetur de tertia parte redituum quae in distributiones assignanda sunt ad arbitrium Episcopi, et nulla fit mentio et praeservatio contrariae consuetudinis, quae maiorem partem redituum in distributiones impendere iubet, sicut fit in cap. 3, sess. 21; cuius tamen consuetudinis plena confirmatio, quippe respicit distributiones quorumcumque beneficiorum, sane attingit speciales quoque distributiones quae desumuntur a beneficiis a massa communi distinctis. Diversitas enim tantum est in modo erogationis. Consuetudinis vim quod attinet, forsan non est abs re advertere eius obligandi vim pendere ab errore quo laborabat Praepositus et alii canonici. Hi enim, post tot concertationes habitas sub ultima medietate saeculi decimi septimi, cum exitu tamen incerto quoad onera capitularia (quas concertationes canonici appellant in suis animadversionibus famose capitolazioni), veluti, mutua concessione, sibi assumpserunt gravia onera punctaturarum, sub ea tamen expressa vel tacita conventione; nempe tempus trimestrium vacationum fieri immune ab onere punctaturarum. Hunc errorem iuris expunxit a moribus decretum S. C. C. a. 1892; sed modo quaestionis est, an deficiente fundamento, corruat etiam omne robur consuetudinis quae illi innuebatur. Ceterum, voluntas se obligandi, utpote requisitum necessarium ad inducendam consuetudinem, si est conditioni adnexum, necessario sequitur eiusdem conditionis vices. Praepositus autem ius non amisit obiiciendi hanc exceptionem, quamvis alii canonici eadem exceptione noluerint uti. Hisce animadversis, propositum fuit diluendum dubium, an decretum Episcopale sit confirmandum vel infirmandum in casu.

RESOLUTIO: Sacra C. C., re disceptata sub die 23 Februarii 1901, censuit respondere: decretum esse confirmandum et ad mentem. Mens est ut Episcopus, si maior pars Capituli id postulet, distributiones et punctaturas ad

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tertiam partem redituum in futurum, reducat.

[*Latin ed. p. 677*]

677 FROM THE HOLY CONGREGATION OF THE INDEX, Feast Day V, June 7, 1901. The Holy Congregation of Eminent and Reverend Cardinals of the Holy Roman Church, appointed by the Most Holy Lord Pope Leo XIII and the Holy Apostolic See to oversee the Index of books of pernicious doctrine, and their condemnation, proscription, expurgation, and permission throughout the Christian republic, having met in the Apostolic Palace at the Vatican on June 7, 1901, condemned and condemns, proscribes and prohibits, and orders that the following works be added to the Index of Prohibited Books:

* E. Combe. — *Le grand coup avec sa date probable, c'est-à-dire le grand châtiment du monde et le triomphe universel de l'Église*. — *Étude sur le secret de la Salette*. 3rd edition, augmented with the brochure of Melanie and other supporting documents. — Vichy, 1896.

* Jean de Dompierre. — *Comment tout cela va finir. L'avenir jusqu'à la fin des temps; histoire anticipée des derniers âges du monde*. — Rennes, 1900.

* Josef Müller. — *Der Reformkatholizismus, die Religion der Zukunft. Für die Gebildeten aller Bekenntnisse dargestellt*. First and second parts. — Würzburg-Zürich, 1899.

* F. Kegis-Planchet. — *El derecho canónico y el clero mexicano, ó sea anotaciones al concilio V. mexicano*. — México, 1900.

* *Ibidem*. — *La enseñanza religiosa en la arquidiócesis de México, y suplemento a la obra «El derecho canónico»*. — México, 1900.

* Camille Quiévreux. — *Le paganisme au XIXe siècle*, 3 volumes. — Abbeville, 1895-97.

Therefore, no one of any rank or condition shall possess, read, or circulate these condemned and proscribed works, wherever they may be found, and the aforementioned prohibitions apply to all.

[*Latin ed. p. 678*]

678 Whoever dares to publish, or to read or retain, in any language, the Index of prohibited books, shall incur the penalties prescribed in the Index. These matters having been presented to His Most Holy Lord, Pope Leo XIII, through me, the undersigned Secretary, His Holiness approved the Decree and ordered it to be promulgated. In witness whereof, etc. Given in Rome on the 7th of June, 1901. ANDREAS CARD. STEINHUBER, Prefect of the L. C. F.r. THOMAS ESSER, Ord. Praed., Secretary. On the 10th of June, 1901. I, the undersigned, witness that the aforementioned Decree has been affixed and published. Vincentius Benaglia, Magistrate, Urban Prefect. FROM THE HOLY CONGREGATION OF RITES, ROMAN. DOUBTS:

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Doubtful! Regarding! The Mass under the title *Refugium peccatorum* concerning whether this feast should be transferred to the Paschal season. On the first Sunday of July, in some places, the feast of the Mother of God is celebrated under the title *Refugium peccatorum* with the Office and Mass of the Common, with only the first prayer, which is proper, excepted. This, indeed, presents no difficulty, since it concerns the summer season. But it sometimes happens that this feast must be transferred to the Paschal season, and in that case, a doubt arises concerning the readings of the Third Nocturn to be recited in the Office. For the Gospel of this Mass of the Common, during the Paschal season, is "They stood by the cross." But in the Breviary, the Homily corresponding to this Gospel is lacking. Therefore, the question arises: How is one to act in the case of such a feast transferred to the Paschal season? And the Holy Roman Church, after considering the opinion of the Liturgical Commission and after mature deliberation, decided to respond as follows: In such a case, the Mass of the Blessed Virgin Mary of the Paschal season, from Easter to Pentecost, should be used, retaining the Gospel "Jesus said..." Or, if the Mass of the Blessed Virgin Mary from Pentecost to Advent is used;

[*Latin ed. p. 679*]

From the section of the *Rituum* (Regulations) 679, which corresponds to the Homily III of the Nocturnal Office proper to the Blessed Virgin Mary, under the title "Refugium peccatorum" (Refuge of Sinners). And thus it was written and it was commanded to be observed. On September 3, 1900. C. CARD. ALOISI-MASELLA, Pro-Datary of the Holy Roman Church. Pro-Prefect. L. © S. DIOMEDES PANICI, 5. R. C., Secretary. VICENS. Doubts presented to the Congregation of Sacred Rites by a chaplain of a certain maritime society. The current Master of Ceremonies of the Diocese of Vich, in Spain, having been asked by a senior chaplain of a certain maritime society, and with the consent of his Bishop, humbly requested a solution from the Congregation of Sacred Rites to the following doubts:

I. Whether Bishops can grant to priests of their Diocese the faculty to celebrate Mass on an altar erected on a ship?

II. Whether they can grant this same faculty to all priests of the Bishop, in whose Diocese there are maritime ports?

III. Whether apostolic missionaries, by virtue of this title, can celebrate Mass on a ship, without the permission of the Apostolic See?

IV. Whether priests who enjoy the privilege of celebrating everywhere, can, by virtue of this privilege, celebrate on a ship, without a special Apostolic Indult?

V. Whether chapels on ships, or altars erected within the ships, should be considered for the purpose of sacred rites as private or public oratories?

VI. Whether Masses of Requiem, granted by Decree 3903, dated June 8,

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1896, and 3944 Romana, dated January 12, 1877, can be celebrated in the aforementioned altars?

And the aforementioned Sacred Congregation, after considering the report of the undersigned Secretary, and with the careful vote of the Liturgical Commission and after all things were duly considered, decided to respond as follows:

To I, II, III, and IV: Negatively.

To V: If the chapel has a fixed location on the ship, as if it were a permanent structure...

[*Latin ed. p. 680*]

680 According to the regulations concerning rites, a blessing should be given for those traveling; otherwise, it is to be considered as a portable altar. To the Most Reverend. Affirmative. And thus it was written, on March 4, 1901. DOMINIC CARDINAL FERRATA, Prefect of the Sacred Congregation. L. S. DIOMEDES PANICI, Archbishop of Laodicea, Secretary. UTINENSIS. Doubts arose concerning the dedication of a church if it coincides or occurs simultaneously with the titular feast of the same church, and the titular feast is either the Transfiguration of the Lord or the Most Holy Redeemer. In preparing the calendars of particular churches, the following doubts arose, for the resolution of which the current editor of the calendar of the Archdiocese of Udine, with the consent of his Most Reverend Ordinary, humbly requested from the Sacred Congregation of Rites: I. When the dedication of a church coincides or occurs simultaneously with the titular feast of the same church, and the titular feast is either the Transfiguration of the Lord or the Most Holy Redeemer, which should be given precedence in such a coincidence or simultaneity? II. In the case of a coincidence between the octave day of the dedication of a church and the feasts of the Transfiguration of the Lord, or the dedication of the basilicas of the Most Holy Savior and the Most Holy Apostles Peter and Paul of the Eternal City, how should the Vespers be arranged? And the aforementioned Sacred Congregation, after receiving the report of the undersigned Secretary, having heard the opinion of the Liturgical Commission, and having carefully considered the matter, decided to respond as follows: Regarding I. When the declared title is a feast of the Lord, the titular feast should be given precedence over the dedication; in the case of a coincidence, the Vespers should be divided. Regarding II. The octave day of the dedication of a church does not yield, according to the rubrics, except to feasts of the second class. And thus it was written, on March 4, 1901. DOMINIC CARDINAL FERRATA, Prefect of the Sacred Congregation. L. S. DIOMEDES PANICI, Archbishop of Laodicea, Secretary of the Sacred Congregation.

[*Latin ed. p. 681*]

FROM THE SACRED RITUAL, DECREE 681. Doubts to be resolved by

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certain editors of the liturgical calendar. The following doubts, for proper resolution, were reverently presented to the Congregation of Sacred Rites by certain editors of the liturgical calendar, namely:

I. Whether, concerning prayers for the Church and for the Pope, it is to be maintained that, if one of them is prescribed by the rubric, and the other by the order of the Ordinary, both should be recited, as is customary, in the Mass?

II. Whether the *Pater Noster*, *Ave Maria*, and the Creed should be recited standing or kneeling after the choral Office, as the final antiphon is recited standing or kneeling?

III. When the Anniversary of the Dedication of all churches is celebrated, is this feast secondary for those churches which have not been consecrated?

IV. Do the days of the *octava* of a feast, such as the *octava* of Corpus Christi, where this *octava* is not privileged in the manner of Epiphany, but rather so that any classical duplications, whether occurring or transferred, are to be celebrated throughout the entire Office, or only by a commemoration?

V. On the Feast of the Expectation of the Nativity of the B.V.M., which falls on a Thursday of the four weeks, are two Masses to be sung in cathedral and collegiate churches, namely one of the Feast and one of the Feria, even though they have a certain identity, or is only the Mass of the Feast to be sung?

VI. According to the special rubrics of the Roman Breviary and Missal, the Feast of the Annunciation of the B.V.M. is transferred, with regard to the choir only, to the second day after the Sunday in Albis, as if it were in its proper time, unless a primary feast of the same rite occurs; in which case, it should also be transferred to the following day. The question is: In this latter case, if a primary feast of the first class occurs, celebrated on the second day, together with the Feast of the Annunciation of the B.V.M., and the Feast of the Annunciation is recalled on the immediately following third day, of which Feast the Vespers are to be said? And is the rule given for this stated case to be applied to other similar cases, e.g., in the case of a primary feast of the first class occurring with the Feast of St. Joseph, the Spouse of the B.V.M., transferred according to the rubrics to the following day, March 20th, or to the fourth day after the Sunday in Albis?

[*Latin ed. p. 682*]

682. *Ex Scriptis Congregationis Rituum VII.* Concerning the observance of feasts: On the octave day of the dedication of a church, which is a double minor feast, and coinciding with the feast of the dedication of the basilicas of the Most Holy Apostles Peter and Paul, which is a double major feast, how are the Vespers to be celebrated? VIII. When the Commemoration of all the Most Holy Supreme Pontiffs

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of the Roman Church falls on a Sunday within the Octave of All Saints, is the Postcommunion to be recited for the Mass of the feast and for the said Octave? In such a case, which Postcommunion should be used for the Octave? X. In the First Vespers of a double major feast, is the Commemoration of the octave day of the dedication of the church, whose Office was completed in the morning, to be recited or omitted? X. The privilege of translation, by which primary feasts of the Saints and Doctors of the Church of the double minor rite are permitted to be transferred, if impeded, should it extend to the secondary feasts of the same rite? And the Sacred Congregation, after hearing the opinion of the Liturgical Commission, and after mature deliberation, decided to respond as follows: To questions I, II, and III: Affirmative. To question IV: Negative for the first part; Affirmative for the second (1). (1) Namely: If the octave day of a feast which has an octave falls on another octave, which is so privileged that it only admits double major feasts, it cannot be celebrated in its entirety, but only with a Commemoration. This is the general rule, which must be strictly observed after the aforementioned decree, which, besides resolving the question among experts with authority, is wisely grounded in liturgical reason. And indeed, when an octave is granted such a privilege that it only admits double major feasts, and even if these are not only occurring but also transferred, it certainly cannot admit any other feast, but must exclude those of a lower rite. Therefore, such a privileged octave must exclude even double minor feasts, double minor feasts of Doctors of the Church, and double major feasts. Why, therefore, should it not also exclude the octave day itself, unless it also enjoys this privilege? Indeed, the octave day is, in itself, a double minor feast; but a double minor feast, occurring within an octave so privileged, cannot be celebrated in its entirety; therefore, neither can such an octave day be celebrated. Indeed, whatever day is the octave, if it enjoys a privilege, so that it takes precedence over any double minor feast, and even a double major feast, it can never take precedence over a double second class feast. Therefore, whatever day is the octave, if it is a double feast of any class, as we have said regarding the double first class, it will always be inferior. Consequently, even with a special privilege granted, by virtue of which the octave day takes precedence over double minor and major feasts, it will never be able to take precedence over, or be equated with, a double second class feast. But in the hypothesis where only double second class feasts are admitted, the octave day cannot be admitted, since it is not even equal to a double second class feast, but is inferior to it.

[*Latin ed. p. 683*]

From the Rituals, 685: Regarding both questions. For Vespers, the more solemn feast should be celebrated, with a commemoration of the feast of lesser importance. However, it must be noted that a comparison should

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not be established between the rite of the privileged octave and the rite of the day within that octave; for, if such a comparison were made, not only would the octave to be celebrated be inferior to any other privileged octave, but also any double feast, and even lesser feasts. For, generally speaking, the days within any octave are of a semi-double rite, indeed, they even enjoy a secondary quality; therefore, within it, a double feast should be celebrated, and even a primary semi-double feast. But, if a comparison is made between a rite and a rite, then we must say that the privilege with which the octave is endowed must be set aside; once this is done, we have already gone beyond the limits of the question. For the privilege consists in the fact that a semi-double feast can be celebrated within a privileged octave, excluding all other feasts, even those of a higher rank; therefore, a comparison between the rite of the day within a privileged octave and the rite of the day of the octave itself cannot take place. Thus, for example, the days within the octave of Epiphany are of a semi-double rite, but they exclude all double feasts, unless they are of the first class. Therefore, it would be pointless to introduce the considerations of the superiority of the rite in the feasts that occur, since, although they may be superior, they are nevertheless excluded because of the privilege of the octave. Consequently, a semi-double feast should always be celebrated within a privileged octave, unless a double feast of the first class occurs, contrary to any other double feast that may occur. Now, it may be asked, if, hypothetically, before the feast of Epiphany, a double feast with an octave were to occur, and its octave day fell within the octave of Epiphany, which is so privileged, could the office be celebrated on that day of the octave? Certainly not, because the day of the octave is not a double feast of the first class. Similarly, if a day of the octave occurs within the octave of Corpus Christi, which allows only double feasts of the first and second class: namely, the office cannot be celebrated on that day of the octave, because the day of the octave is neither a double feast of the first class, nor of the second class, although the second class is closer to the first. However, these things have been said generally, since, in other cases, the Holy Roman Church, when granting these privileged octaves, indicates, in addition to the feasts generally to be excluded, those to be excluded in particular. Thus, the Decree in Asculana, no. 2611 (4576), grants the octaves of the Most Holy Body of Christ and the Assumption of the Blessed Virgin Mary as privileged, so that only double feasts of the first and second class can be celebrated within them; but within the octave of the Assumption, it also exempts the octave day of Saint Lawrence, for which it desires that the office be celebrated. Indeed, Father Gardellinus, in his relative annotation, teaches that this is like a general rule, but he does not show that it is so, and the contrary is asserted against the present Decree. Similarly, the Decree 2688 (4680) grants the feast of the Most Holy Trinity with a privileged octave, so that it excludes all double feasts, unless they are of the first or second class; nevertheless, it

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desires that the complete office be celebrated on any day of the octave of the feast. This particular provision must also be observed; for it is a concession, which only grants what the legislator wishes. But the present Decree only exhibits a general rule, as is clear from the entire context: so that, when any octave is granted by the Holy Roman Church in such a way that only double feasts of a certain class can be celebrated, any day of the octave, which may fall within it, cannot be celebrated in its entirety, but only with a commemoration. With this matter resolved and demonstrated, either by reason or by authority, the question proposed for the month of April in the Ephemerides has been prudently postponed.

[*Latin ed. p. 684*]

684 FROM THE SACRED CONGREGATION OF RITUAL to the Most Reverend Archbishop. Vespers shall be of the octave, with the proper readings for the following day. For the Eighth Hour, the Postcommunion shall be taken from the Mass of the Vigil of All Saints. For the First Hour, affirmative to the first part, negative to the second (1). For the Third Hour, negative. And thus it was written, on March 4, 1901. DOMINICUS L. CARD. FERRATA, Prefect of the Sacred Congregation. * S. DIOMEDES PANICI, Archbishop of Laodicea, Secretary. PRIVILEGES. – These are granted by the Supreme Pontiff, through a rescript of the Sacred Congregation of Rites, to be solemnly celebrated within a triduum or octiduum within the year following Beatification or Canonization. I. In the solemnities, whether triduums for those recently beatified, or octiduums for those recently canonized, which are permitted to be celebrated, all Masses, whether solemn or private, are to be included among the votive Masses. Moreover, for the special solemnity, His Holiness grants that all Masses be said with the Gloria, and always with the Gospel of Saint John at the end, according to the rubrics. However, the solemn Mass shall be said with the single Collect; the other private Masses shall be said with all the current commemorations, but excluding the Collects. II. Solemn Masses are impeded only by Duplicia of the first class, and also by those of the same class which are Sundays, as well as by feasts, vigils, and octaves which are privileged, which aforementioned duplicia exclude. Private Masses are also impeded by Duplicia of the second class, and also by those of the same class which are Sundays. In these cases of impediment, the Masses shall be said of the occurring feast, or of Sunday, or of other days as mentioned above which are privileged, as the rite of the day requires. In Duplicia of the first class, a single commemoration of the Blessed or Saint shall be added to the Collect of the day, with a single conclusion; in Duplicia of the second class, to the Collect of the day, with its distinct conclusion, shall be added, in private Masses, the commemoration of the Blessed or Saint; all those which the rite requires. (1) Hence, in Decree 3624 to the Seventh Hour, the response "Negative" suffices for "Affirmative"; and the rubric which is to

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be observed there is that which is found after the table of the occurring feast, number 2.

[*Latin ed. p. 685*]

From the Sacred Ritual, number 685, the Collects mentioned above are to be omitted. Similarly, on the other privileged days, the Mass shall be celebrated according to the rite of the day, with the commemoration of the Blessed or Saint always added in its proper place. Concerning the Preface, the rubrics are to be observed.

III. In churches where there is the obligation to celebrate a Conventual or Parochial Mass with an offering for the people, such a Mass shall never be omitted when the Office so requires.

IV. If Pontifical Masses are celebrated at the throne, the Third Hour shall not be sung, but the Ninth Hour: which, however, being a lesser Hour of the Blessed or Saint, cannot nevertheless substitute for the Hour of the day for the purpose of satisfaction.

V. Although all Masses, or even private ones, may be hindered, it is nevertheless permissible to celebrate the Second Vespers of the Blessed or Saint more solemnly, without any commemoration: which, however, although they bear the character of a votive offering, cannot serve for satisfaction.

VI. Other ecclesiastical functions, besides those mentioned, may always take place, with the consent of the Ordinary, such as a homily during the solemnities of the Mass, or an evening prayer of praise, analogous to those offered for the Blessed or Saint, the Rosary, and especially the solemn recitation with the Venerable Blessing. Finally, the hymn *Te Deum*, with *Tantum Ergo* and the prayers for the Most Holy Sacrament, for the purpose of giving thanks, shall always be solemnly chanted, without fail, at the conclusion of a Triduum or Octave.

VII. In order to further foster veneration and piety towards the novendial feasts of the Blessed or Saints, His Holiness, opening the treasures of the Church, benignly grants to all and to each sex of the faithful, who, truly penitent, having confessed and having received the Sacraments, shall visit the churches or public oratories in which the aforementioned tridual or octaval solemnities are celebrated, and there, for a certain period of time, shall offer devout prayers to God, a plenary indulgence, in the usual form of the Church, to be obtained once, and applicable also to the souls detained in Purgatory. To those, however, who, at least with a contrite heart, shall visit these churches or public oratories during the aforementioned time, and there shall pray as mentioned above, an indulgence of one hundred days is granted, to be obtained once each day, applicable in the same way to the souls existing in Purgatory.

[*Latin ed. p. 686*]

686. From ancient custom, the cult of confirmation has been bestowed

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upon the Servant of God Anthony Bonfadini, a Priest of the Order of Friars Minor of Saint Francis, now blessed, among the men of the Franciscan family renowned for the sanctity of their lives. The Servant of God Anthony Bonfadini, born in the year 1400 from honest and pious parents in Ferneres, should be commended. After having, from his childhood to his youth, produced abundant fruits of doctrine and piety in his paternal home, in the year 1439 he entered the Order of Friars Minor of Saint Francis. There, following the footsteps of his humble and obedient Father, after completing his novitiate, he devoted himself to the sacred disciplines, in which he gained great esteem. Burning with love for God and for his neighbor, he constantly contemplated Christ and the Crucified, and sought to make Him favorable through prayer and fasting. Having made his vows, he was sent to foreign lands to announce the word of God to the nations, which he diligently did, raising the minds and hearts of men from earthly and fleeting things to heavenly and eternal goods. Before Anthony returned to Italy, he visited the sacred places of Palestine, consecrated to the mysteries of the Christian Redemption, in which places he felt a more fervent charity, together with a more vivid desire to devote himself entirely to God the Redeemer and to patiently endure all hardships and difficulties for Him. Having returned to Italy, obeying the commands of his superiors, as a true son of obedience, he cultivated the town of Cotignola with the works of his apostolic ministry, until, weakened by labors and illness, on the first day of December in the year 1482, he exchanged his laborious life for a blessed and eternal one. Indeed, the reputation of the sanctity of the Servant of God was such that all, with confident hearts, immediately invoked him, whether living in the town or in the province, imploring his help. Meanwhile, the ecclesiastical cult offered to the Servant of God Anthony has increased over the years, from the time of the urbanian era and continuing to this day without interruption, to the point that in the year 1894, in the ecclesiastical court of Faventia, an Ordinary Informative Process was prepared concerning him, with the Most Reverend Bishop of Faventia expressing a favorable opinion. After all the acts were presented to the Congregation of Sacred Rites, so that this cult might be approved by ordinary authority and confirmed by Apostolic sanction, and with the urgent request of the Most Reverend Father Cyro a Pisauro, the promoter of the cause, and with the entire Order of Friars Minor of Saint Francis...

[*Latin ed. p. 687*]

From the Sacred Congregation, number 687, His Eminence and Reverend Lord Cardinal Lucidus Maria Parocchi, Bishop of Porto and St. Rufina, and also Relator in the Congregation of Sacred Rites, proposed the following question for discussion at a meeting held at the Vatican on the date indicated: "Whether the opinion of the Reverend Bishop of Faenza concerning the cult rendered from time immemorial to the aforementioned

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Servant of God, Anthony Bonfadini, priest of the Order of Friars Minor of St. Francis, or concerning the exception made from the decrees of the Most Holy Pope Urban VIII, should be confirmed in the case and for the purpose in question?" And the aforementioned Sacred Congregation, after hearing the report of the Eminent Proponent, and after hearing the voice and written opinion of the Reverend Father John Baptist Lugari, Promoter of the Holy Faith, and after carefully considering all matters, judged that it should be written as follows: "After a preliminary examination of the documents not legally recognized, the opinion should be confirmed, if it has pleased the Most Holy [Pope]." On May 7, 1901. All of which having been reported to the Most Holy Pope Leo XIII through the undersigned Cardinal Prefect of the Congregation of Sacred Rites, His Holiness, having approved the rescript of the aforementioned Sacred Congregation, granted the requested dispensation and confirmed the opinion of the Bishop of Faenza. On June 13 of the same month and year. DOMINICUS CARD. FERRATA, Prefect of the Sacred Rites Congregation. L. * S. DIOMEDES PANICI, Archbishop of Laodicea, Secretary. Concerning the beatification and canonization of the Venerable Servant of God, Joseph Amand Paserat, priest of the Congregation of the Most Holy Redeemer. God has granted a worthy helper to Blessed Clement Maria Hofbauer, propagator of the Liguorian Institute in the transalpine regions, in the person of Joseph Amand Paserat, a man of the same Institute, devoted to his own perfection and equally to the salvation of his neighbor. This Servant of God was born in the town of Joinville, in Lorraine, on April 30, 1772, and was properly baptized as the firstborn of Joseph and Catherine Olivier. The boy showed a disposition more inclined towards piety than towards games. The strength of his intellect first manifested itself in the Abbey of St. Urban, where he learned the rudiments of literature under the Fathers of the Order of St. Benedict; afterwards...

[*Latin ed. p. 688*]

688 FROM THE LIFE: In the seminary of Châlons, where he diligently pursued the humanities. Already destined for further studies in Paris, in order not to be deceived by false opinions and harmful errors introduced there, he preferred the small town and his paternal home, as if it were a place of refuge. Observant of both divine and human law, he could not be diverted from the right path, either by flattery or threats; and because he refused to be bound by a nefarious oath, he was thrown into prison. However, during a time of war, he was taken from prison and, by force of arms, compelled by the rebels; after two years, with God's protection, he was freed. In Augsburg, and subsequently in the city of Würzburg, he devoted himself to the studies of sacred theology. In Warsaw, he was admitted to the novitiate of the Congregation of the Most Holy Redeemer in 1796, alongside Brother Clement M. Hofbauer; and in the same year, due to

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his evident virtue, he was admitted to make his vows. In the following year, Joseph received the priesthood, and immediately undertook the teaching of theology and ecclesiastical history at the Liguorian College in Warsaw. Shortly thereafter, he was appointed prefect of the novices, and successively served as the director of several houses. In Vespia, in the region of Vallis, he resided for three years; he opened a house in Freiburg, where crowds of inhabitants and visitors flocked, and he assisted them with the rudiments of the faith, through sermons and other exercises of the sacred ministry; and he brought together the dispersed members of the confraternity into the old monastery near Vallis Sancta, near Freiburg. However, in the year 1820, when Brother Clement, Vicar of the Alphonsian Congregation in the transalpine regions, was called to his heavenly homeland, Joseph Passerat, previously designated by the aforementioned Brother Clement, succeeded him, with the authority of the Most Reverend Moderator of the Congregation, and with the prudent consent of the Fathers. In Vienna, he established a principal house of the confraternity, and, supported by the favor of the Apostolic Nuncio and the Emperor, he devoted all his care to ensuring that the confraternity maintained an integral life in union with its head, and that it was propagated, according to the norms of the constitutions drawn up by St. Alphonsus, even in distant regions of America. The Servant of God left Vienna as if renewed, when a popular sedition devastated the Liguorian temple and monastery. Then he fled to Liège, and, having relinquished the office of Vicar due to advanced age and infirmity, he retired to Bruges, where for two years he was a spiritual father and teacher to the religious of the Most Holy Redeemer. He was struck by apoplexy and taken to Tournay, where for eight years he patiently and bravely endured this affliction.

[*Latin ed. p. 689*]

From the Sacred Congregation of Rites, document G89, it is recorded that, not fortified by the sacraments of the Church, he fell asleep in the Lord on October 30th, in the year 1858. The reputation for holiness which the Servant of God had acquired during his life, after his death, increased so much that a process was instituted by the Ordinary, and brought to a conclusion, and presented to the Congregation of Sacred Rites. Therefore, having considered the petitions of several Eminences, Most Reverend Cardinals and Most Reverend Prelates, and the Reverend Father M. Rauss, Superior General and Rector of the Congregation of the Most Holy Redeemer, and the urgent petition of the Most Reverend Father Claudio Benedetti, General Postulator of the same Congregation, the Eminence and Reverend Lord Cardinal Caietan Aloisi-Masella, Relator of this Cause, proposed the following question for discussion at the meetings of the Congregation of Sacred Rites, held on the designated day at the Vatican: "Should a Commission for the Introduction of the Cause be appointed in this case, and

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for the purpose of which we are speaking?" Furthermore, the Eminences and Reverend Fathers entrusted with the preservation of the Sacred Rites, after hearing the report of the Cardinal Relator, and after hearing the voice and the written opinion of the Reverend Father D. Giovanni Battista Lugari, Promoter of the Holy Faith, and after carefully considering all matters, judged it fitting to respond: "Affirmatively, that is, a Commission should be appointed, if it pleases the Most Holy Father." On May 7th, 1901. Subsequently, a report on these matters was presented to our Most Holy Lord Pope Leo XIII by the undersigned Cardinal, Prefect of the Sacred Congregation of Rites, and His Holiness, approving the judgment of the same Sacred Congregation, deigned to sign the Commission for the Introduction of the Cause of the Venerable Servant of God, Joseph Amandi Passerat, professed priest of the Congregation of the Most Holy Redeemer, on the 13th day of the same month and year.

DOMINICUS CARD. FERRATA

Sacr. Rit. Congr. Praef. L.

S. PANICI Archiep.

DIOMEDES Acta. Tom. XXXIII. fase. CCCXCV. « Laodicen. Secr. 44

[*Latin ed. p. 690*]

690 FROM THE SACRED CONGREGATION'S RESPONSE to the Observations of the Most Reverend Father, Promoter of the Faith (1), CONCERNING THE QUESTION of whether the act of signing the commission for the introduction of the cause in question should be considered a sign. In the case of the Cause of God's Servant, which, at the beginning of the 19th century, was advanced to the superiors, the witnesses, as induced by the Postulator, could not all have been present: for there were three who were present. Therefore, the Advocate contended that the Postulators should not make use of probationary proofs, which are usually granted as a support in ancient causes. But this is certainly in vain. — What, indeed, are probationary proofs? There are two kinds of them. Some are derived from the testimony of witnesses; others are derived from written documents. When and for what reasons can Postulators legitimately make use of probationary proofs? According to the Benedictine Decree, which was published in the year 1741, this benefit is granted "when it is not established that the ordinary process has been unduly delayed due to malice or culpable negligence, so that no witnesses are left." But what is culpable negligence? What is malice? Among all, it is clear that culpable causes can sometimes occur when no witnesses are left; for these are the words of the Decree: "so that no witnesses are left." Therefore, how can anyone seriously contend that the Postulators were guilty of fault and negligence, when in the aforementioned trial, three witnesses were present? Furthermore, in this

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place, the matter concerns the public opinion and the reputation of sanctity, and the judgment, instituted by the ordinary authority of the Bishop, is governed by the precepts of common law. These should be understood with a more lenient sense than the precepts of particular law, by which the Apostolic tribunals are governed, or they recognize as legitimate that proof which comes from only two witnesses. Indeed, it is entirely pertinent that Pignatelli and Benedict XIV state: "The reputation of a person is legally proven by the testimony of two witnesses, who are of good faith." Therefore, if a fault can sometimes occur when absolutely no witnesses remain, why do we accuse the Postulators of negligence, when (1) The process for the beatification of the Venerable Thouret begins on page 229 and continues on pages 379, 427, 561 and following.

[*Latin ed. p. 691*]

From the Sacred Ritual, section 691, witnesses were presented regarding what they saw in this case, and yet, only two remained? Furthermore, what constitutes a greater deceit or fraud is easily understood. For, a serious suspicion of deceit and fraud arises when something worthy of censure exists in the life of a handmaid of God, which ought to be concealed by silence. In truth, Joanna Antida Thouret did not live a solitary life, nor was she alone in the city or town; rather, she lived openly and before all, in many cities, where she acquired a constant, lasting, and universal reputation for holiness, based on numerous examples of virtue, which were outstanding. During her life, she had men who were just estimators of her virtue, men distinguished for their holiness and dignity. However, while the handmaid of God was alive (the accuser claims), she had fierce adversaries, and therefore, one can rightly suspect that those seeking to promote her cause were delayed, until, if possible, the memory of her deeds would be erased by the passage of time. What is more, in this judgment, three witnesses testified, as we have seen, about facts which they themselves witnessed with their own eyes; the others, all without exception, derived their information about the handmaid of God either from witnesses or from other devout individuals. Therefore, if anything less credible had existed in her life, it would have been impossible for them to overlook it. All the other witnesses drew from the same sources; hence, it is clear that nothing worthy of note could have been concealed from the eyes of the witnesses. This will become even more evident to you when you consider the reasons why the handmaid of God had adversaries. From the Benedictine Rule, XIV, it is said: "All the saints and holy women have always been subject to calumnies, and especially those who were more holy and more fruitful for the Church. The Holy of Holies, namely Christ, was not immune to the calumnies of men... and by his example, good men have suffered persecution... when Paul, the Apostle of the Gentiles, was accused of being a heretic and a criminal, and Stephen was accused of blasphemy against the holy place and the law; when it was

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said of St. Athanasius that he was a rapist and a murderer; of St. Basil, that he was ambitious and proud; of St. John Chrysostom, that he was arrogant; of St. Jerome, that he was violent and a heretic; of St. Augustine, that he was the author of new doctrines about grace; of St. Bernard, that he was a pseudo-prophet. For these are the works of the devil, as testified by St. Cyprian." Furthermore, Jesus said: "Blessed are you when you are persecuted for righteousness' sake..."

[*Latin ed. p. 692*]

692 From the Sacred Congregation of Rites: "All men have said that it is evil, because of my name." Who has opposed the handmaid of God? The most bitter enemy of all was the Bishop of Bisuntinum, the Reverend Courtois de Pressigny. Learn the cause from the Gallican commentator: "He was undoubtedly a learned prelate... but everyone knows that he was one of the prelates of that time most attached to Gallicanism, and this gives us the key to the mystery." The Superior General of the Congregation of Sisters devoted to charity had claimed the highest authority over them. When Pope Pius VII, however, removed this authority from her and ordered that the sisters be subject to various bishops, the bishop of Bisuntinum was inflamed with anger, and immediately separated the houses of Bisuntinum from the others, undertaking to govern them himself, attempting to pour out all the venom of his malice against her.

What did she do? She only opposed him with gentleness, determined to defend the rights of the Roman Pontiff, even to the point of death. "The modifications made by the Holy See caused grave troubles for the Servant of God from the part of the Archbishop of Besanzone, who wrongly believed that she had proposed the modification regarding the Generalate. The Servant of God very virtuously endured those troubles, distinguishing herself by heroic resignation and great humility."

Although the Bishop of Bisuntinum was an adversary, no one has ever dared to denigrate the name of the handmaid of God. This is testified to by V.I., who knew her personally, and by the parish priest of the town where the handmaid of God was born, acting as a witness by virtue of his office: "I have never heard, seen, or read anything said, written, or done against the sanctity of the handmaid of God, either during her lifetime or after her death." Furthermore, in the houses of the Sisters of Bisuntinum, which were separated from the authority of the handmaid of God, no one has ever opposed her sanctity. Given these circumstances, any prudent person can see that nothing could have happened in the affairs undertaken by the handmaid of God that could have been concealed in silence. Therefore, any suspicion of deceit or culpable negligence must be removed from those involved in this case, as being less legitimate. And this is all the more so, because, according to the sentences of the Sacred Roman Rota, deceit and fault are never presumed, but the accusers must demonstrate both with the

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most serious proofs. "The burden of proof lies with him who asserts, not with him who denies, and in exceptions, it must be said that the accused must fulfill the role of the parts of the plaintiff, and the exception must be considered as an intention."

[*Latin ed. p. 693*]

From S. C. RITUUM 693, "to complete." In this judgment, not only has no probable cause for accusation been presented, but moreover, it is demanded of a most distinguished and honorable man, bound by an oath of religion, to whom, (having fully satisfied the requirements of the Benedictine Decree), subsidiary proofs cannot, in any way, be denied. But the Censor insists: why has this judicial inquiry been delayed? Furthermore, due to the severity of the times, in which no more probable or urgent cause, nor ever a more serious or necessary reason, could have arisen. From the day that Joan Antida was received into heaven, it has been a long and arduous task for the sisters to spread and establish the houses founded by her, and to establish firm foundations everywhere. The scarcity of resources at that time weighed heavily upon them: hence, it can be justly transferred to them the words of Velasquez: "It is not said that it is hindered [from proceeding] because of delay." But the greatest hindrance is poverty. Public upheavals had created difficulties. For as that mad fury erupted from the depths, in which the most depraved men did not hesitate to usurp the sacred name of liberty, what was not done against the religious orders? Sacred pastors were torn away from their flocks, religious families were dissolved, their goods were plundered, virgins devoted to God were driven out of their ancestral homes, and the rights of the Apostolic See were violated with sacrilegious audacity. In such a upheaval, the sole duty of the Sisters was to keep the Congregation safe from all harm. With the restoration of public order, their minds were suddenly spurred to collect documents, upon which the judicial inquiry would be based. Moreover, the severity of the times provided a probable reason for the delay, as was the case with the causes of St. Francis of Rome, Fremiot de Chantal; St. John Baptist de la Salle; Blessed Louis Grignon; Venerable Joan de Lestonnac; Venerable Louise de Marillac: can it therefore be argued that this case cannot be proven? Furthermore, St. Vincent de Paul ordered that all of his students should demonstrate humility, so that it happened that for a long time the sisters avoided even that external glory, which consists in being highly esteemed in matters of sanctity. The most noble cause of Louise de Marillac was, for this very reason, delayed for a long time, because a certain prejudice had spread among the Daughters of Charity, that St. Vincent de Paul had said, "no Daughter of Charity would ever be canonized." Within the Vincentian Society of the

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Sacred Missions.

[*Latin ed. p. 694*]

694. In the Sacred Congregation of Rites, on several occasions, the matter of initiating the cause of a member who, having departed this life with a reputation for holiness, has been discussed. However, the opinion of those who maintained that the cause should not proceed, with the exception of the cause of the Founder, always prevailed, deeming it more prudent to preserve humility. Only in more recent times has some leniency been shown regarding a stricter procedure, and the cause, which otherwise seemed destined to be forever silenced, has, by divine providence, been advanced. And this is just: "For it is good to hide the secret of a king." If this is true concerning the Vincentian Society, what about the institutes of religious women? Furthermore, according to the authority of the Roman Rota, it has been declared most appropriately: "All signs of negligence cease in him who has a just and reasonable cause for delay." Therefore, if this inquiry, should it have experienced any delay, was not extended without fault or fraud? Since this is the case, the slightest shadow of negligence or deceit can easily be dispelled by those initiating the cause, and in no way can they be denied "the opportunity to present proof of virtues... which they call subsidiary, composed only of hearsay witnesses, sometimes from those who saw, sometimes from those who did not." However, with such a privilege granted, it would be superfluous to inquire whether any witnesses who saw the person in question existed, or whether none remained. For all the burden of proof can be undertaken by the hearsay witnesses themselves. Moreover, it is not convincing that three witnesses who saw the person in question, having answered some questions with a dry and almost empty manner of prayer, have not fully satisfied. Indeed, not all witnesses are required to know everything, since it is not from the individual statements of each of them, but from the totality of their statements, that the truth is revealed in judgments, and it is necessary to discern; just as, when waters are collected from all sides, the sources flow abundantly. This is what Benedict XIV saw and felt when he said: "It is not necessary, in the judgment of which we are now speaking, that the witnesses be entirely in agreement, or even consistent; for they can be individual, and their individuality can be helpful." If we were to suppose, for the sake of argument, that three witnesses who saw the person in question did not perfectly fulfill their duty, with the Benedictine privilege granted, the witnesses who heard about the person can adequately fulfill their duties and fill the gaps and deficiencies; for they can assist each other. Therefore, we concede what the Censor assumes, namely, the prior...

[*Latin ed. p. 695*]

From the Sacred Ritual, section 695, paragraph 24, it is stated that the

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Sisters of Divine Providence in Bisuntina, when questioned about whether they had separated themselves from the authority of the Order, responded with fasting and great solemnity. Sister Clarissa Mantelli, who was accustomed to frequent conversation with Joanna Antida, gave many and very appropriate answers. We also have the same witness, who, when questioned about when access to the tomb of the Servant of God began, stated: "I cannot precisely specify the time today." However, Sister Clarissa Mantelli, a witness of fact, correctly states: "The aforementioned access began from the time of the exhumation of the aforementioned body and continues to this day." Furthermore, it is not without significance that the same witness gave fasting answers to questions 13, 14, 15, and 16. What then? The gaps in this previous testimony are most appropriately and eloquently filled by Sister Felicia Rosaz, a witness herself of fact, in items 11, and also by Witness X, XI, XVII, XVIII, XXVIII, and XXIX. To these, nothing can be added. Furthermore, it seems that the aforementioned person, the censor, believes that those things which we have presented must be done. However, he eventually admits that he cannot deny that the accusers are legitimately using the privileges of the Benedictines. But, lest this so certain and ingenuous confession seem to cast some blemish upon himself, as if he were somewhat removed from the censor's office, the eminent man contends that the subsidiary proofs offered by the Prosecutors in this judgment are, in general, less perfect. While he praises the ordinary investigation, affirming that it was conducted with diligence and expertise, with which the Ecclesiastical Court of Naples is accustomed to conduct such matters, he seems to desire greater weight (relevance) to be given to the proofs. Therefore, he laments above all that the most abundant collection of documents, which are recorded in writing, have not been inserted into the records of the judgment, as if access to this cause were to be precluded. But, learned man, please listen. Although the subsidiary proofs consist of witnesses and written documents, neither the witnesses nor the documents are so connected that they cannot be separated from each other. Often, documents take on the functions and roles of witnesses; often, witnesses provide support for documents. If, therefore, the Prosecutors have omitted to insert the documents into the records of the judgment, they have used the opportunity appropriately. And no harm could ever have been inferred to the cause from this: first, because the Prosecutors have entrusted the burden of proof to both witnesses of fact and witnesses of hearing; and second, because the witnesses of fact and the witnesses of hearing...

[*Latin ed. p. 696*]

696 From the Sacred Ritual, the two processes, being joined together, have demonstrated such a force of evidence that nothing more could be desired. Furthermore, in this matter of the signing of the commission (as they call it), there is only one point of contention. But "in order to obtain

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the signature of the commission, it is not necessary to prove in a specific way virtues and miracles, but only that the fame of virtues and miracles must be proven." However, numerous, weighty, and certain witnesses have testified to the individual virtues and supernatural gifts of Joan Antida. But the witnesses (the censor urges) do not always adhere to oral tradition: some, indeed, frequently resort to documents. Therefore, what is the consequence? Are they forbidden to use this indirect method of verifying documents (if I may call it that), when dealing with a cause that is governed by the precepts of common law, provided that the authors of these documents "are good men, prudent, and their writings are in no way corrupted"? Since oral tradition is such that it cannot always transmit a complete account of events, along with all the details, even the smallest ones, it is not surprising that witnesses sometimes draw support from various sources. Therefore, Witness XI (as the censor notes), and Witness XXXII refer to "the account of the life of the Nativity of the Blessed Virgin" written by the parish priest of the town. And since he was a contemporary of Joan Antida and a man of consummate virtue, there is no one who has not seen the faith he possesses. — Furthermore, the censor laments that Witness XII relies primarily on the *Life* of the Blessed Virgin, which was written by her niece, Sister Rosalia Thouret. But what of this? "She was her companion and confidante until her death": after the death of the Blessed Virgin, she obtained a high position among the Sisters of Charity, and was held in great esteem for her virtue. Therefore, all faith must be given to the account written by her. — Moreover, if it pleases you, let us mention a few things that Witnesses XI and XXXII affirm. Their place will be filled by many things, and those of the greatest importance, which the other witnesses have drawn from the living voices and mouths of the elders, and which are widely presented in the summary. And this is not enough. For the censor, in turn, points out that the fame of the sanctity of the Blessed Virgin has existed for only a few years, according to recent writings, which, since they are more recent, seem to claim little authority for themselves. — But to what end this? Do not the witnesses unanimously indicate that the fame, by which Joan Antida flourished during her life, has always remained constant from the day of her death until now? — But a small part of this fame has been increased by recent writings.

[*Latin ed. p. 697*]

From the Sacred Ritual, number 697, we readily concede. For there is no deed among men so illustrious, to which a greater honor could be added from the words of writers. But we absolutely deny that this fame is derived solely from those commentaries. Let the days pass if I were to present all the testimonies, affirming the fame of Saint Joan of Arc, which originated from her extraordinary practice of virtues, and which has not been erased either by the passage of time or by the malice of her enemies. The more

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recent writers, to whom the witnesses 18 and 20 refer, as Censor notes, are the Reverend Henry Calhiat, devoted to the Apostolic Missions, who holds a doctorate in theology and sacred law, and is an augmented priest, and the Reverend Father Ferdinand Canger, a member of the Society of Jesus, a man of excellent memory. Another account of the life of Saint Joan was published in French at the Vatican Library, in the year 1892; another in Italian, in Prati, in the year 1893. Should these men be rejected when attempting to prove the fame or declare some particular fact? By no means. According to Benedictine law, writers are classified into four categories, and each defends the credibility of the others according to their own category. The first are those who relate events they have witnessed with their own eyes; the second, those who have learned from those who have seen; the third, those who have heard from those to whom the witnesses have narrated; and finally, the fourth, those who have collected the monuments that they present from historical accounts. But what credibility? What authority? Listen to Pope Benedict XIV himself: "The authority of these writers is as great as that of those from whom they obtained their writings." Therefore, since the greatest weight of authority belongs to the category of writers who relate events they have witnessed with their own eyes, and greater than the other categories, the commentaries I have mentioned above are to be held in the highest regard. For the monuments they contain belong to the very age in which Saint Joan lived. For this reason, these commentaries most strongly prove the origin of the fame. Moreover, since some of the monuments contained in these commentaries are somewhat more recent, the continuation of the fame is also proven from them. Furthermore, Calhiat gave a judicial seal of truth and great authority (so to speak) to his work, because he gave sworn testimony in this judicial inquiry, and he openly and thoroughly declared the sources from which he drew his book. Finally, then...

[*Latin ed. p. 698*]

698 Both the French and Italian commentaries on the life of St. Jane Frances de Chantal were dedicated to a most distinguished man, outstanding in doctrine and piety, who not only rejoices to be named patron of the entire Sisterhood, but also, when in this most excellent Order and in this present assembly, he accurately examines and elucidates this cause, he will easily be able to demonstrate how much faith these authors possessed. The diligent censor, after reviewing the documents, particularly desires two of them, which are, in truth, one and the same, because both were written with the utmost purpose by the Servant of God, so that she might repel the accusations that the Most Reverend Monsieur Courtois de Pressigny, Bishop of Bisontine, had vehemently leveled against her, on account of regulations rightly approved by Pope Pius VII. One of these documents is the *Mémoire de pures vérités* [Memorial of Pure

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Truths], which, at the urging of the priest Neyre, parish priest in the town of Thonon, the Servant of God presented to the Bishop of Annecy, who defended her; the other is the *Justification et explication etc.* [Justification and Explanation, etc.], which she sent to the Most Reverend Monsieur Courtois himself, so that, with the truth of the matter clearly explained, he might appease his anger and conform to the teachings of the Roman Church. Both of these documents were duly approved by this Holy Order, along with all the writings that were said to have been written by the hand of the Servant of God. The censor does not present anything worthy of note at this time. What then? Were judgments to be inscribed on the tablets? But this was a matter of opportunity, not necessity. The reputation for holiness is debated in this place, and this is clearly evident from the statements of the witnesses. When we speak of individual virtues, we will then take greater care to add further supports for the proofs. And if, not out of necessity, but because the cause is excellent, we may touch upon some aspects of these two documents, it will be beneficial to show how the Servant of God, with such wisdom and genuine truth, repelled the accusations made by the Bishop of Bisontine, and how she defended the rights of the Roman Pontiff and the honor of the nascent Sisterhood, so that her virtue may shine more and more, and the Gallic spirit, inclined to excessive ambition and obstinacy, may be demonstrated. The censor laments that certain documents were not included in the judgments, although this Holy Order duly considered them. These are: I. Letters sent by the Servant of God to the Bishop of Cusentin, who had been her confessor. II. Letters given to the Bishop of Bisontine. III. A small history of Joan Antide Thouret, recounted by Mary Sourdon, who was from the same town as the Servant of God.

[*Latin ed. p. 699*]

From the Sacred Ritual, section 699, she pursued this matter with such love. — But even now, a facile, frivolous, and weak response is offered. All of these writings have been carefully considered and examined: the Censor finds nothing in them worthy of reproach; indeed, everything reveals the outstanding sanctity of the Handmaid of God, as the theological judgment of the Censor clearly declares in his writings concerning her. Finally, it must be added that in this judicial inquiry, the question concerns only the general reputation: therefore, the documents which are now lacking will be presented by the parties involved with the utmost sincerity, when the virtues of each individual are discussed. Therefore, nothing arises that could be objected to. The Censor also laments that certain documents were not introduced into the judicial inquiry. Among these, the first place is held by a certain letter, dated around the year 1825, addressed to the Bishop of Annecy; then there is a catechism, which it is said that the Handmaid of God composed, adapted for the proper performance of the duties of the

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Sisters; thirdly, there are some letters, which are said to have been written by the venerable Sister Joanna Antida to the Reverend Father Receveur, who was the parish priest. — However, it is certain that these were never subjected to a judicial inquiry. But what is the reason? A harsh necessity. Although much has been investigated, they were not found, neither in the Neapolitan archives, nor in those of Besançon, nor in Rome, nor elsewhere. — But if it is permissible to reconstruct in our minds the lost documents and to outline their image, it will be easy to show that nothing could have occurred in those documents that was not joined with outstanding virtue. And if we turn our attention for a moment to the catechism which she is said to have composed, and if we consider all of her apostolic labors, it will be easy for us to fill this gap. Indeed, recall that time, most bitter for the Christian name, in which the adolescence of the Handmaid of God occurred: the unconquered spirit with which she repelled those who rebelled against the Roman See, who wished to subject it to a sacrilegious oath; the diligence with which she performed the works of charity for the sick: "precious counsels" (as the theologian Censor reports) with which the most loving mother encouraged her daughters; then you will readily feel how many and how much of the documents of sanctity must have been contained in that book, which is now lacking. Finally, we must say something about the letters addressed to the venerable Father Receveur. In that most unfortunate time, when everything was in turmoil,

[*Latin ed. p. 700*]

700 FROM THE SACRED RITUALS: At that time, human laws in France were being overturned, and Joanna Antida was forced to leave her monastery and return home. Having placed her trust in God, and hoping that she might one day be able to freely embrace the state of monastic life again, she had devoted herself entirely to teaching children and caring for the sick, when she heard, through reports, that the Receveur Congregation of women had been established, and that her sister, Barbara, had joined it. Joanna Antida was greatly and suddenly inflamed with a desire to join that same Congregation, and thus a correspondence began between them. — But how good were those letters written, it is declared not only by the most holy life of Father Receveur (for the cause for the recognition of his merits before this sacred Order is being considered), but also by the circumstances in which those letters were written. Nevertheless, the Censor refuses to yield to those who claim that constancy and diligence in defending the sacred laws were lacking. For in the document entitled "Mémoire de pures vérités," these words are found: "then the sisters of Paris published that we were schismatics," and it is complained that the following words, appended to this sentence, "and they have always continued to publish it," are tainted with falsehood. We say: what then? The poet sang: "I reprehend you, because you did not—Many days, and

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many words restrained you." As Cicero said: "The falsehood of a writing is revealed by its words." It is enough to cast a brief glance at that document to easily understand that the last words bear the mark of having been added from the same ink, with which the document itself was drawn up, and that those words were not later added by a foreign hand. Furthermore, the Handmaid of God was not the most skilled in all forms of writing, and her writings, which still exist, are almost entirely the first examples, which are commonly called "rough copies," and are in every way in need of correction. If learned men often add a black mark to a word to indicate a correction, what should be said of Joanna Antida? Moreover, the history of the institution is full of injuries that were inflicted upon the Sisters of Paris, who founded it, and I can easily refrain from recounting them. — On the very day that Joanna Antida was writing that document, the injuries had not yet ceased. She was ordered by the superiors to present her case, so that she would not conceal the truth or deviate from obedience, and when she first began to write, she loosened the reins of her free pen.

[*Latin ed. p. 701*]

From the Sacred Congregation of Rites, 701, and after more mature consideration of the matter, in order that the Christian office of charity might conceal any imperfections and that the integrity of the truth might be maintained, the final words, "and they have always continued to publish it," were removed. Everyone can easily perceive the merit of this. These matters, which we have considered up to this point concerning the writings, can rightfully and deservedly be referred to other writings of the Servant of God. Indeed, since almost all the examples are of poorly copied manuscripts, not original copies, writings are often found to be marred by errors, alterations, and changes. — If some of these writings are also missing or are incomplete in some part, this must be attributed to the ravages of time. For nothing can endure forever, nor can any document, even one carried away by the wind, serve as a lasting memorial. The theologian Censor did not hesitate to consign this to writing, and he expressed the highest praise for the sanctity of the Servant of God with these words: "From the writings that are available, it is easily deduced that nothing is lacking, and that nothing is present that would give reason for censure, and that a most pious woman would not be considered less worthy." Indeed, a vast amount of material could be added, if I wished to do so. But when the witness stated: "During the Generalate of Mother Carolina Chambrot, a printed life of the Mother... written by the niece of the Servant of God, was destroyed," Censor inquired as to what this account of her life had been and why it had suffered such a fate. — The account of her life, to which the witness referred, is entitled "Notice sur la vie de sœur Jeanne-Antide Thouret, Fondatrice des Sœurs de la charité de Besançon sous la protection de Saint Vincent de Paul." It was written

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by Febronia Thouret, the second niece of the Servant of God, and a most distinguished sister in the Congregation. — Since she was contemporary with Jeanne-Antide, she described all of her actions that were known to her in detail. The account, printed by order of Pope Pius IX, is inscribed as such, from which it is easily understood how much authority was given to the book. When only a few copies of this book had been published, the copy that was kept in the archives of Rome was destroyed by a chance fire, while Mother Carolina Chambrot held the office of Superior of the Congregation; therefore, it could not be brought forward in the judicial inquiry into the writings. — Nevertheless, those investigating did not cease to inquire and search, until at last some copies were found. — Suddenly, one of these copies was entrusted to the most vigilant Censor, who, after having duly examined the account, will find that there is no further need to discuss this matter.

[*Latin ed. p. 702*]

702 FROM THE SACRED CANONS OF THE RITUAL. Since these things are so, if we bring together all the arguments presented thus far, and comprehend them in a single (as it were) glance, there will remain no doubt that the proofs upon which this inquiry rests are, in every respect, complete, according to the order of judgment. But at last, the time has come to bring this question forth from these confines, to prove it in a more open forum, and for the Servant of God to receive the honor due to her through her virtues. — These things, which often come to my mind as a garden adorned with the flowers of sanctity, are before my eyes. — For the life of Joan of Arc was not only of such a kind that one would commend and admire it entirely, but it also vividly depicted the image of those virgins who, with unwavering spirit, illuminated the age of the wandering Church. — Nor do the objections raised by the accuser detract from the sanctity of her office. — For just as shadows enhance the brilliance of colors in a painting, so too, the force of opposition excites and makes the splendor of virtue shine more brightly and clearly. The accuser, indeed, first pointed out that Joan of Arc, compelled by the French turmoil, was forced to leave the house of the Daughters of Charity in Paris, and did not return to a peaceful state. — Secondly, the accuser attributed a fault to the Servant of God, namely that she, following the Venerable Monsieur Receveur, who was working on the founding of a new institute for women, went to Switzerland, and shortly thereafter, departed to Besançon, where she laid the first foundations of her own society. But when considering the events of the life of the Servant of God, it is not difficult to refute these objections. For, in order to push back, with a fitting and just shield, the first head of the accusation against Joan of Arc, it is necessary, above all, to consider the unheard-of wickedness of that age, when in the bosom of France, a black fire of war raged against God, the temples of God, the altars, the holy virgins, and the pastors of the

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flock, which, had it not been extinguished in due time, would have completely extinguished every trace of piety. We read that the people, incited by furious anger, rushed into every wickedness that could be conceived or devised. — Therefore, the society of the Daughters of Charity in Paris was overthrown, and the Servant of God, as (they) gave the institute its name, was forced to seek refuge in a house. There, she did not cease to perform the same works of charity with which she had already begun, assisting the most pious priests, who, having refused to be bound by the nefarious oath, were hiding and concealing themselves.

[*Latin ed. p. 703*]

Rarely, in the critical moment of life, driven by hatred of rebels, has one remained safe; always, with God's protection, the Institute of the Sisters, founded by charity (before the sodality of girls was restored), grew gradually, until it was established and increased in many houses, so that even the Servant of God herself did not realize to what office God had chosen her. While the institutions founded by Joanna Antida were flourishing widely, meanwhile, the house of the Daughters of Charity in Paris, from which the Servant of God had departed, began to be restored, and by a law given by Napoleon on December [date], in the year 1810, the superior of that Congregation assumed her former office. Was the Servant of God, therefore, bound by the laws of justice to return to the restored Congregation? By no means. As long as she remained among the Daughters of Charity, she had undertaken no vow, no obligation. She was, therefore, only a novice. For a novice is one who, ignorant of the religious institute, performs the first rudiments of it, until, by facing dangers, the institute itself solemnly accepts him. The novitiate is like a gymnasium, in which young men are accustomed to exercise, so that they may see what they are capable of in the life they are about to begin, and what they will refuse to bear. Hence, Suarez: "A novice does not dedicate himself, nor does he confer a right upon religion." For these reasons, Joanna Antida, being of her own free will, and whatever she might think, had the power to return or not to return. But because she possessed exceptional prudence, she turned away from that which the wise Paul said to her, "Be not wise in thy own conceit," and she sought counsel from a wise person, wisely. But that was indeed a strict command from the legitimate superiors, from which the Servant of God could only deviate with great disgrace. Therefore, it was most prudent, because the best part of prudence consists in obedience, "which alone is the virtue that infuses and preserves other virtues." Remembering that "obedience is better than sacrifice," Joanna Antida obeyed with the simplicity of her heart, as Christ did, and she spoke of that victory, which only absolute obedience brings to its cultivators. And if the girls of Charity living in Paris "published that we were schismatics, and they have always continued to publish it," this proves even more the virtue of the Servant of God, who

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was never shaken by the words of others, and who, with divine inspiration, conceived.

[*Latin ed. p. 704*]

704. Ex S. C. RITUUM, perseverante in actione ad exitum, omnia perfecta perfecit. Itemque, manifestum est quam obscurus et infirmus interdum sit sensus hominum, etiamsi sanctorum, qui saepe, ne ipsi quidem, consilia Dei percipere possunt. Saepe enim vidimus bonos ipsos, bonis operibus aliorum, ex falsa sententia mentis, contrarii esse; saepe etiam, quidam ad fastigium sanctitatis perducti sunt, ex oppugnationibus, quas eis sanctissimi viri cum bona fide intulerunt.

— "Non fui revocata de Paris" (Dei Serva prosequitur), "et continuavi operis mei, solum ut conformarem me voluntati Dei, in quo omnem spem meam posui." Verumne nonne moderatores sunt interpretes divinae voluntatis? Nonne ipsi Ioannae Antidae dixerunt: "Obey: voluntas Dei se manifestat per voluntatem superiorum?"

Itaque, refutata validissima proposita accusationis, et lux Dei Servae agendi rationi inducta, quam prudentissimi omnes non modo non improbant, sed amplissimis laudibus celebrant. "Cum non rediit amplius ad Paris" (Gallici commentarii scriptor inquit), "et se independenter ad Besançon movens, bene fecit. Si aliter ageret, fuisset culpa; nam oboedirem illis qui pro illa tunc auctoritatem ecclesiasticam, pontificalem et divinam repraesentabant." Quibus verbis, praeclarae italici scriptoris vox adiungitur, sententiam habentem: "Il fatto poi ha dimostrato che quello e non altro fosse stato il divin volere sull'avvenire della nostra fondatrice. Siccome pertanto non s'incolpa Madama Javonhey di aver lasciato la Thouret e fondata la bell'opera di S. Giuseppe di Cluny, così nemmeno la Thouret vuol essere tacciata, perche abbia istituita una nuova Congregazione di Carità collo stesso spirito di S. Vincenzo de' Paoli, di che ella erasi abbastanza imbevuta nei pochi anni, che visse novizia nell'antica."

Del reliquo, in historia ecclesiastica non raro est simile casum, ut rami divisi a primo trunco arboris, transplantentur in alio terreno, ut germinent et fructificent, si non cum maiore, certe cum aequali vigore. Sic creverunt multi ordines religiosi, qui, dispares in certis exterioribus, et in distinctione vestimentorum, omnes tamen cultum spiritus fundationis primitivae servant. Hoc tantummodo est evidentissima defensio eius, quae, longe ab accusatoriis, honorem et coronam a se conducta ad terminum, collegerat. (sequitur)

[*Latin ed. p. 705*]

Concerning another point of consideration, we believe that Joan Antida should not be blamed, since, following the Very Reverend Anthony Sil, she first went to Besançon, and then, at the order of the superiors, she

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established a Sodality there. For she had returned from the convent of young girls near Paris, which had been dissolved due to a lack of charity, to Besançon (as we have already seen), where she had earned great merit in religion by instructing children in Christian piety and caring for the sick with exceptional charity. But spurred by the incentives of greater perfection, she had nothing older than the desire to dedicate herself entirely to God through some institute she had professed. Meanwhile, the Very Reverend Receveur, having learned how much the Servant of God had labored in defending the cause of religion, suddenly sent her letters inviting her to join him, promising that in a new sodality she would embrace the same way of life that she had begun in caring for the sick. Finally, yielding to such urgent invitations, she followed him to Switzerland. From there, being driven out by enemies of the Catholic religion, she was forced to wander through the regions of Switzerland and Germany, and she never ceased to perform acts of charity for the members of the sodality, who were weakened by illness and hunger. However, that institute concerned itself more with contemplation of divine things than with active life, and it demanded a very strict way of living, which differed greatly from the rigorous discipline of charity to which the Servant of God had begun to form herself in the Vincentian convent. Indeed, the Very Reverend Receveur "preferred for his religious women, whom he initiated through his examples into the life of victims, penance with its expiations. And it is known that the Sisters of Charity add to their three ordinary vows the vow to dedicate themselves to the care of the sick." Therefore, Joan Antida certainly felt that such an institute was less in accord with her aspirations and with the purpose that God had already instilled in her from her tender years. "She did not find in the community that had welcomed her the ideal that she had sought." Nevertheless, in order to more clearly perceive the voice of God, she intensified her prayers: "I did not cease," she said, "to address fervent prayers to God, asking Him to fulfill His designs for me and for my sanctification." While praying, she felt that the plan of returning to France was being confirmed more and more: but she did not act rashly, "taking no decision before having consulted a confessor. She had scruples, which honor the delicacy of her conscience, and she simply explained them to an Acta, Vol. XXXIII, p. 396.

[*Latin ed. p. 706*]

706 FROM S. C. RITUUM, a priest. He told her that she was completely free, since she had not yet made any vows, and reassured by this response, she went to take leave of Abbot Receveur, whose congregation had undoubtedly already been significantly decimated by exile, persecution, and death." What, therefore, is to be blamed in the handmaid of God? She had not obligated herself with any declared vows; there was no such institution, which would require her to pursue such studies: she offered prayers

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to recognize the will of God; she consulted with superiors, who are interpreters of the divine will, and she obeyed their counsel. What more, therefore, did prudence require, and which she did not do? But she had vowed to go to Palestine with her companions. What of that? Consider the facts: "The Superior (having been expelled from here and there with his companions, sometimes detained in prison), not knowing what else to do, made us approach the bank of the Danube, and said to us: 'We are here between heaven and earth, having no refuge, and being in great peril; it is necessary that all those over the age of twelve years make a vow to go to Jerusalem for one year; raise all your hands to the sky, and say all with me: "So we shall do."'" If we were to suppose that the priest Receveur was not entirely prudent in encouraging all to make such a vow to go to Palestine, it would not be a fault of the handmaid of God, but of the Venerable Receveur himself, and would be something to be avoided. But, for the cause of the beatification of this handmaid of God, it has happily begun within this sacred Order; therefore, what would be an obstacle for one, could not be so for another. These things, indeed, we say in passing and as it were, in transit, for if you examine the matter more closely, it will also become clear that the handmaid of God, having accepted the vow, was rightly absolved by the order of legitimate superiors. Please, examine the facts carefully. - Tossed about by the harshness of times, Joanna Antida had taken refuge in a certain town in Switzerland, commonly called Lardon, when, by divine providence, she met two French priests, who were to be her authors and leaders in the founding of a sodality. One of them was the Reverend de Chaffory, the General Vicar of the diocese of Besançon, the other was the Reverend Bacoffe, the president of the parish of Besançon, who, having zealously fought for the preservation of the Catholic faith, were now striving to return home from exile. - Affected by the sorrows of religion, the handmaid of God, without reservation, explained the matter of the accepted vow to the Besançon General Vicar. "I told him that I had resolved and done..."

[*Latin ed. p. 707*]

"From the Sacred Ritual, 707, a vow not to return to France." What of himself? "All of this is beautiful and good, but obedience is preferable to any other sacrifice. God speaks through superiors, and I command you to enter France within fifteen days, to help restore faith and good morals in our diocese, following the example of the saints Ferréol and Ferjeux. Obey: The will of God is made known through the will of superiors." Further on, the Censor, recalling that most bitter contention which threatened to destroy the Congregation of Sisters when it was still newly founded, although the source of the discord stemmed from the Archbishop of Besançon, who favored Gallican institutions, nevertheless does not doubt that the conduct of the Servant of God contained some elements of imprudence.

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However, it is not difficult to demonstrate that Joanna Antida was entirely free from any blame in this matter, and that she did nothing that was not joined with the highest virtue and the glory of God. But in order that we may proceed with a certain order and that the series of events may be clearer to her, it is necessary, above all, to distinguish two moments in time: namely, the time when the rules of the Servant of God were drawn up, and the time when the prescribed rules were duly approved by Pius VII, at the request of the same Servant of God. These are very different from each other, and the discord arose solely from the rules approved by Pius VII, which caused the house in Besançon to be separated from the entire family of Sisters.

If we consider the first prescription of the rules, it is never and in no way true, as the Censor claims, that the Servant of God influenced the drafting of the rules in such a way that she neglected the duties owed to the pastor of Besançon, and that it was not true that she damaged his reputation. On the contrary, it was the will of Joanna Antida to give to each one his due, while faithfully fulfilling the duties of religion and charity.

Therefore, it will be a great error, when judging the matter which was carried out amidst the difficulties of the Gallican disturbances prevalent everywhere, not to be guided by these times and customs, nor to turn one's mind to the anxieties of that age. Hence, it is easy to conjecture the reasons for which the Servant of God was urged to entrust the highest governance of the Congregation to the pastor. He was, in fact, highly deserving of the newly founded institute, since he was the one who had been the author of the founding of the same Congregation, and...

[*Latin ed. p. 708*]

708 FROM THE SACRED RITUALS, which had made it more certain that this was the divine will. All kinds of support had been provided, so that the Institute could take root and spread freely; and this support did not cease in the meantime. Furthermore, she was assisted by sisters from the convents, and she guided them with appropriate instructions, never sparing herself in order to provide for the needs of souls and bodies. From other quarters, many just causes arose, which prevented the Most Reverend Lecoz from abandoning that most important office. With a heart so lofty and upright, she defended the Catholic faith, and her individual actions demonstrate how she restored the excellent examples of the ancient virgins. She was already close to attaining the palm of martyrdom, lest she deviate from the prescriptions of the Church and the Apostolic See. She preferred to be banished to prison, to be punished with exile, to suffer from hunger, thirst, and torments, to lack shelter, to be beaten with whips, or even to die, rather than to be among those who did not hesitate to break their vows with that abominable oath. Strengthened by these resolutions, she was prevented from handing over the nascent Congregation to that Bishop,

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who, in the year 1791, having scorned the laws of the Church, openly subscribed to the new form of government, and who, in the year 1797, having been rebuked by the censures of the Catholic Church, did not blush to preside over a sacrilegious monastery of Gallican bishops, who had recently joined the new civil regime. Although he later renounced his former position and was duly reported to the Roman Pontiff by the Archbishop of Besançon, he did not fully submit until the year 1804. Moreover, the Servant of God prescribed her own rules in the year 1801, when the new Bishop of Besançon was far from grateful to Catholics, and, because of her past life, she had brought matters to such a point that he did not have great expectations of her. Indeed, just causes for this fear were conceived by all, and those who had fought so fiercely to defend the Catholic faith and the rights of the Church were more distressed, having already lost their lives. Considering these things, who would dare to seriously accuse the Servant of God, if, spurred by the impulses of conscience and religion, she hesitated for a moment at the very beginning, whether to entrust the Institute to Monsignor Lecoz or not? Indeed, does not the doubt that arose prove her integrity and virtue all the more? Does it not vindicate the praise due to her for her grateful and virtuous feelings towards Monsignor Bacoff? And this is not enough. Furthermore, the Servant of God, according to her own judgment, did not want to change her manner of life. As a most prudent virgin, she...

[*Latin ed. p. 709*]

From the Sacred Ritual, number 709, it is stated that the priests, who were endowed with Catholic wisdom, were consulted, and, having heard their opinions, she remained entirely steadfast. Then came "the good Catholic priest," whom she had initially approached; then came "the very Catholic missionaries," whose counsel she sought, and they said that it would greatly contribute to the growth of the Congregation if the governance of the Institute were entrusted to the Bishop of Bisontine, rather than to a parish priest or another priest. And what did she do? She did not attempt to refute their opinions, she did not carefully examine the reasons for their views, she did not stir up any controversy. With a ready and prompt spirit, she replied: "I submit." Therefore, after the laws were given, she decreed that the Bishop of Bisontine should henceforth govern the entire Congregation. Truly, no one will fail to praise the prudence, humility, and splendor of obedience displayed by the Handmaid of God in this matter. But the Censor observes: that Joan submitted the rules she had composed to the Vicars General, but not to the Archbishop. Why is this? When the Handmaid of God first wrote the rules, the Archbishop had not yet come to Vesontion. Vicars General were present, to whom she legitimately subjected the rules for approval. Indeed, the Vicars General urged the Handmaid of God not to submit the rules to the Archbishop,

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"lest he be too flattered." Furthermore, although the Most Reverend Lecoz was, as we have seen, a legitimate Archbishop among the Catholics of Bisontine, there was not much agreement between him and them in terms of nature and morals, nor did they follow him with all the favors they could, because "he has gone over to the Revolution." Therefore, when the Vicars General urged the Handmaid of God not to submit the rules to the Archbishop, their true intention was that she should not be bound by any law to submit those same rules, which they had already properly approved, for re-examination by the Archbishop. Joan obeyed Antida with a simple heart, and knowing well "that they were watching over her, as if they were going to give an account for her soul," she gave a shining example of that obedience which we call blind obedience, through which it is uniquely given to mortals to attain the highest peak of virtue. The Censor complains that, when the Bishop Lecoz came to Vesontion, Joan Antida, at the urging of the parish priest Bacoffe, did not visit him for official reasons until nearly a year after his arrival. But, I beg you, esteemed Sir, recall how much the parish priest Bacoffe had benefited the recent Institute; and, as for his relationship with the Apostolic See, listen to this: "The Abbot Bacoffe was an ecclesiastic of the most outstanding reputation."

[*Latin ed. p. 710*]

710 From the life of St. Bernard, a life most worthy of reverence. He held great love for the Holy See, and he made this abundantly clear through the sufferings he endured as a true and invincible martyr under the long tyranny of the Terror. He had lost everything for his fidelity to God and the Catholic Church; and he was even on the verge of losing his life if he did not live with [someone named] Pesiglio. Before even Joanna Antida began to apply herself to writing the rules, "he was interested in our establishment," (wrote the Servant of God), and he entrusted us with charities for the poor, and he informed us about them for distribution. I considered him my superior, and indeed I reported everything to him; I did nothing without consulting him, and I went with him with the simplicity of a child. It was he who told me to make regulations for my new community." But because human nature is weak and frail, as soon as the Servant of God read the rules that she had drawn up, and realized that she had not been appointed the supreme president of the Congregation, she felt great distress. She then began to use her authority over the sisters, and she did not at all restrain the anger she felt towards the Archbishop. How much virtue the Servant of God displayed in all these matters, no one can fail to understand. But could such sweetness appease the anger of a heart so exasperated? Certainly not. The situation was thus, when the Archbishop had not yet arrived in Besancon. As soon as he arrived—since, for the sake of peace, the Servant of God had been instructed by the General Vicars (as we have said) to honor the parish priest of Bacoffe, because of his singular merits

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for the sodality, as a perpetual president—if, therefore, the Servant of God promptly obeyed him, to whom the legitimate leaders of the Congregation had been appointed; if his will was her law and norm; if she carried out his commands, even though they were harsh: who can seriously reproach her? Does she not strive, with all her strength and with all her mental acuity, to avoid what St. Bernard rebukes in those who object to obedience, namely, "if you begin to bear it with displeasure, if you judge your superior, if you murmur in your heart, even though you outwardly do what is commanded, this is not virtue, but a disguise of malice?" What, therefore, should the provident mind of the Servant of God have foreseen and prevented, in order to extinguish the sparks of nascent discord? What should she have done, with the utmost diligence, to uproot the roots of the past, and she did not do? She neglected nothing that was within her power to overturn the causes and consequences of the past. If...

[*Latin ed. p. 711*]

From the Sacred Ritual, section 711, the matters desired and the efforts made did not correspond at all, and this fault must be entirely attributed to the Parish Priest of Bacoffé. To the Servants of God, greater glory and splendor accrued from this. For virtue is often to be measured not by the outcome of events, but by a right mind and by the right counsel of men. To resolve another observation concerning the discord that arose between the Archbishop of Bisuntinum, Courtois de Pressigny, and the Servants of God, from which the houses of Bisuntinum were separated from the others, it is necessary to recall certain things that we discussed above in section 8. For we said that he, who held a mind offensive to the Roman Church, zealously defended the Gallican party of the Church, which is believable to everyone. Now, consider the following: "Under the Empire, the bishops of the court had aided Napoleon in circumventing the unfortunate Pius VII, in setting traps for him, and in tiring his patience. The court bishops of the Bourbons followed the same errors. Louis XVIII counted the years of his exile as years of reign and persisted in seeing in the Concordat of 1801 a breach made to his rights. Therefore, in 1814, a commission of ecclesiastics and bishops was established to advise on the means of restoring the Church of France to its former foundations. And it was precisely Mgr. de Pressigny, who was chosen to go to Rome to negotiate this matter. He was to bring the Pope above all to declare the Concordat null and void, but this did not succeed. Now, consider in what state of mind Mgr. de Pressigny, appointed Archbishop of Bisuntinum, arrived in his diocese. Could he sacrifice his Gallican opinions? He was the friend of Mgr. de La Luzerne, who had become a cardinal. He was returning from Rome, as ambassador of the king. He therefore breathed everywhere an atmosphere permeated with Gallicanism. Many bishops and priests, at that time, took pride in ignoring Roman doctrines." Furthermore, before the Prelate of Bisuntinum took possession of his see,

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he had already submitted the rules to the approval of the Roman Pontiff, having received commendatory letters from the Reverend Durand, who at that time held vicariate power over the See of Bisuntinum. On August 5th, in the year 1819, he decreed that the sisters of the Servants of God should be exempt from the jurisdiction of the Prelate of Bisuntinum and subject to the authority of each bishop in his own diocese. The Archbishop arrived in Vesontio on November 3rd, in the year 1819, and, having learned of the circumstances,

[*Latin ed. p. 712*]

712 From the highest authority of the religious orders, great anger arose. The irritation was fueled by the mature exasperation of Mother Rochia Bacoffe, and the feminine "spirits" of certain sisters, who, spurred on by envy, hoped that, as before, the highest authority of the Congregation would once again be dominated by them. The Servant of God sent a letter full of sweetness to the sisters of Bisuntine, and addressed the Archbishop with these words: "I came to our Holy Father the Pope as the representative of Jesus Christ; he is guided by his spirit, and therefore he dictated everything he did; and it was my duty to conform to this, and it is the duty of all the sisters of our institute. If you ever had doubts that it was I who requested changes to the Constitutions, I can assure you that I did not even have such a thought, and the Holy See can provide proof of this." Observe, I beg you, this manner of acting; carefully examine the causes and consequences of things; scrutinize the innermost thoughts of those who dissent, and see, if you will, with what reason and piety, and how rightly and considerately, everything was carried out by the Servant of God. Among the favorable voices of all those who prayed, Naples was included, where a wide field for charity was immediately opened. Houses, schools, a hospital, which they called "Incurabili," and other works of piety were entrusted to their care, so that the long-awaited hope would be completely fulfilled. But not only did the undertakings in Naples need to be strengthened, but also unexpected and unforeseen circumstances arose, which rightly detained Joanna Antida, who was about to leave. No one is unaware of how offensive to the Church were the laws promulgated by Joseph II (Emperor of Austria) and which had long been in force in the Neapolitan Kingdom. From these, the authority of the Supreme Pontiff was greatly harmed, and the sacred rights of the Roman Church were violated. Indeed, it was decreed that nuns and monks should obey the bishops, and that they should be released from the power of the Highest Authorities, to whom they had previously sworn obedience. — Such a law, as it affected others, also applied to the Sisters of Charity with a special decree. Undoubtedly, the Servant of God felt great distress in her heart about this; but she spared nothing, as far as it was within her power, to ensure that this decree would be completely abolished. The Defender of the Faith, seeing this matter as quite clear, seems to have

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finally turned to the Servant of God in order to—

[*Latin ed. p. 713*]

From the Sacred Ritual, 713, it is evident that the first step of the process was not that the deceased had been fortified by the sacred bread of the travelers. But if one considers that Joanna was suddenly seized by a stupor of the nerves, so much so that she was almost entirely devoid of sensation, it will easily be understood that there is no place here for censure. Indeed, Benedict XIV had already stated: "Some servants of God die without having received the Sacrament of the Eucharist as Viaticum... If the servant of God did not receive the Viaticum, either because it was deemed that it should not be administered to him because of the vomiting with which he was afflicted... or if, considering other circumstances, there is no doubt, such a death can be considered as one that is required for Beatification and Canonization." For if "the virtues continued until death; if it should be established that those virtues which were lacking were lacking not through will, but through necessity; if God were to deign to illuminate the aforementioned death with supernatural signs and miracles; the aforementioned death, although sudden and unexpected, should not hinder Beatification and Canonization."

[*Latin ed. p. 714*]

714. A CHIROGRAPH from the Most Holy Pope Leo XIII concerning the offices subject to vacancy within the Chancery and Datary of the Apostolic See. To the Most Reverend Cardinal Mariano Rampolla, Our Secretary of State.

"Having considered the reforms requested by the present circumstances, and with Our approval, which have already been largely introduced into the ecclesiastical dicasteries of the Chancery and Datary, and noting the existence of offices subject to vacancy, whose holders, in the majority of cases, lack any burdensome obligation or corresponding compensation towards the Holy See, We deem it opportune, and as We exercise Our Supreme Authority, We order that, from the first of next July, any distribution of taxes and emoluments customarily distributed among the various holders of offices subject to vacancy shall cease.

To those who, until now, have benefited from this distribution, and who, no later than December of the current year, present the titles proving the nature and origin of the offices subject to vacancy held by them, We reserve the right to provide for them, always subject to the cessation of every and any office subject to vacancy within the Chancery and Datary, according to the norms of justice and equity, according to the various circumstances.

To this effect, We appoint a special Commission which shall convene in the Vatican, composed of the Most Reverend Monsignors Luigi Pericoli, Agapito Panici, Francesco Spolverini, and Ludovico Schüller, assisted by

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the Lawyers Cesare Guidi and Carlo Patriarca as Consultants, which shall have the task of recognizing the aforementioned titles and proposing appropriate measures.

Furthermore, We entrust to You, Most Reverend Cardinal, conferring upon You all the necessary and appropriate powers, to fully execute this Our Will. We also charge You to communicate this Chirograph to the Cardinals Vice-Chancellors and Pro-Datary, who, as well as the General Depositary and the Chaplains of the individual Colleges, are hereby exempted from any involvement in the matter of offices subject to vacancy, which We directly reserve to Ourselves, derogating from any contrary provision.

To the two aforementioned Cardinals, it shall pertain only to regularly implement the effects of what We prescribe here, in..."

[*Latin ed. p. 715*]

LETTERS 715, or to their respective Offices, must cease, as of the day of July next, any payment to the Chancery and the Datary of the aforementioned taxes and emoluments. And while we inform you of Our Will, We impart to you, from the heart, the Apostolic Blessing. Given at Rome, near St. Peter, on this 11th day of June, in the twenty-fourth year of Our Pontificate. LEO XIII, POPE.

LETTERS: To the Most Eminent Secretary of State, to the Most Eminent Cardinals, Lucidum M. Parocchi, Vice-Chancellor of the Holy Roman Church, and Caietan Aloisi Masella, Prefect of the Datary of His Holiness.

From the Secretariat of State.

June 12, 1901.

In obedience to the Sovereign Orders of the Holiness of Our Lord, the undersigned Secretary of State has the honor to communicate to Your Eminence a Sovereign Chirograph issued by His Holiness on this 11th of June.

Therefore, in execution of the Sovereign Will, the undersigned takes the liberty of informing Your Eminence that, during the period of time benignly granted by His Holiness, from July 1st to December 31st of the current year, for the presentation of the documents that individuals will be able to present, the Holy Father grants that they may receive, in each of the aforementioned six months, the same sums that they received in the 2nd half of the year preceding, 1900, calculated monthly.

In communicating to Your Eminence these Pontifical dispositions, the undersigned Cardinal most humbly kisses Your Eminence's hands and honors himself by confirming the sentiments of his profound veneration.

D.M. CARD. RAMPOLA.

[*Latin ed. p. 716*]

716 Letters of the Most Holy Pope Leo XIII to the Superiors General of

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Religious Orders and Institutes. My sons, greetings and Apostolic Benediction. At all times, religious families have received from this Apostolic See particular testimonies of solicitous and provident care, whether they enjoyed the benefits of peace, or especially during days of severe trials, such as those you are experiencing at this moment. The grave attacks which, in some countries, have been reported against the Orders and Institutes subject to your authority, cause Us profound sorrow. The holy Church laments, because she feels herself wounded in her very essence, and seriously hindered in her action, which, in order to flourish freely, needs the cooperation of both the secular and regular clergy: for truly, he who touches her priests or her religious touches her in the very apple of her eye. For Our part, as you know, We have employed all means to avert from you so undeserved a persecution, and also to spare those countries such great and unmerited misfortunes. Therefore, on several occasions, We have pleaded your cause with all Our power, in the name of religion, of justice, and of civilization. But We hoped in vain that Our remonstrances would be heeded. Behold, indeed, that in these days, in a nation singularly fertile in religious vocations, which We have always surrounded with particular care, the public authorities have approved and promulgated exceptional laws concerning which We, a few months ago, raised Our voice, hoping to avert them. Remembering Our sacred duties and following the example of Our illustrious predecessors, We strongly condemn such laws, because they are contrary to the natural and evangelical right, confirmed by constant tradition, to associate together in order to lead a life not only honest in itself, but particularly holy; contrary also to the absolute right which the Church has to found religious institutes exclusively subject to her authority, to help her in the fulfillment of her divine mission, while producing the greatest...

[*Latin ed. p. 717*]

LETTERS 717: Great benefits, both religious and civil, accrue to the advantage of this very noble nation itself. And now, We feel inwardly impelled to open Our paternal heart to you, desiring to give you and to receive from you some holy consolation, and at the same time to address to you suitable teachings, so that, remaining even more steadfast in the trial, you may gather abundant merits before God and before men. Among the many motives for courage that arise from faith, remember, dear sons, this solemn word of Jesus Christ: "You are blessed when you are reviled and persecuted, and when false accusations are made against you for My sake" (1). Reproaches, calumnies, and vexations will fall upon you because of Me: then you will be happy. Indeed, however much they may multiply against you the pretexts for accusation in order to degrade you, the sad reality will nonetheless become evident to all eyes. The true reason for persecuting you is the capital hatred of the world against the City of God,

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which is the Catholic Church. The true intention is to drive out, if possible, from society the restorative action of Christ, which is universally beneficial and salutary. No one ignores that Religious men and women of both sexes form an elite within the City of God: they are those who particularly represent the spirit and mortification of Jesus Christ; they are those who, by observing the evangelical counsels, strive to bring Christian virtues to the height of perfection; they are those who, in many ways, powerfully support the action of the Church. Therefore, it is not surprising that today, as in other times under unjust forms, the City of the world rises up against them, especially men, who, through sacrilegious pacts, are more closely bound and more servilely subjected to the Prince of this world himself. It is clear that they consider the dissolution and extinction of religious orders as a skillful maneuver to achieve their preconceived design of leading Catholic nations into the path of apostasy and of breaking away from Jesus Christ. But if this is so, We can say to you in all truth: (1) Matthew V, 1.

[*Latin ed. p. 718*]

718 *LITTERAE*: Vos estis felices, quia non odimini nec persequimini nisi propter illud genus vitae quod libere electum est ex amore Christi. Si maximas et voluntates mundi sequereturis, non vos inquietaret et etiam vobis favaret. Si del mundo essetis, mundus diligeret quod est suum; sed quia in viis contrariis ambulis, insultibus et bellis exponimini. Propter hoc mundus vos odit (1). Christus ipse vobis hoc praedixit. Quare, cum pro justitia patiamini, ille vos clementer et praeferenter respicit, quia vos plus conformes sibi videt. Et vos, participantes passionibus Christi, gaudete (2). Aspire ad virtutem illorum heroum, qui laeti ad congregationem ibant, quia iudicati erant digni passionibus pro Iesu Christo (3). Ad hanc gloriam, quae ex testimonio conscientiae vestrae oritur (4), adjunguntur, sine quod vos quaeratis, benedictiones omnium virorum proborum. Omnes qui "vere curant pacem et prosperitatem patriae," existimant non esse civitatum plus probos, plus devotos et plus utiles patriae quam sodales Congregationum religiosarum: et tremunt cogitante de eo, quod, in vobis perituri, tam multa bona, quae ad vestram existentiam pertinent, amitterent. Est multitudo indigentes, derelictorum, miserorum, pro quibus omnia genera institutionum fundavistis et sustentatis, cum ingenio et caritate mirabilibus. Sunt patres familias, qui filios suos vobis commiserunt, et qui usque ad praesens sperabant vos eis dare educationem moralem et religiosam, hanc educationem sanam, vigorosam et fructuosem in virtutes fortes, quae numquam plus necessaria fuit quam in nostro tempore! Sunt presbyteri, qui in vobis inveniunt excelentes auxilia in ministerio suo, quod est grave et laboriosum. Sunt homines omnium ordinum, qui, in hoc tempore corruptionis, in consiliis vestris inveniunt directiones utiles et hortationes ad bonum, quae auctoritate vitae vestrae probatae sunt.

(1) Ioann. XV, 19.

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(2) 1 Pet. IV, 13.
(3) Act. V, 41.
(4) 2 Cor. I, 12.

[*Latin ed. p. 719*]

LETTERS 719. It is especially the sacred Pastors who honor you with their trust, who consider you experienced instructors of the young clergy, and who recognize in you true friends of their brethren and of the people (1), who offer for them to the divine clemency incessant prayers and expiations. But no one can appreciate the distinguished merits of the religious Orders more justly than We, who from this See must attend to the needs of the universal Church. Already in other documents, We have made a particular mention of them. Let it suffice for Us at this moment to praise the great zeal with which they follow not only the directions, but even the slightest desires of the Vicar of Jesus Christ, undertaking all the works of Christian and social utility that He indicates to them, going to the most inhospitable regions, braving all sufferings, and even death itself, as several have gloriously demonstrated in the recent revolution in Chine. If, among the most cherished memories of Our long pontificate, We count having, by Our authority, raised a great number of servants of God to the honors of the altars, this memory is all the more pleasing to Us because they mostly belong to the regular Institutes, either as Founders or as simple religious. We wish to recall again, for your consolation, that among men of the world distinguished by their position and by their knowledge of social necessities, there are not lacking upright and impartial minds, who rise up to praise your works, to defend your inviolable right as citizens, and your even more inviolable freedom as Catholics. Certainly, it is enough not to be blinded by passion to see how little foresight and nobility it shows to strike down men who, expecting nothing and asking nothing for themselves, expend themselves entirely in the service of society. Let us consider only with what zeal they apply themselves to develop in the children of the people the germs of natural goodness that, otherwise, would be stifled, to the detriment of themselves and of others. Precious seeds that, with the help of grace, the religious cultivate patiently and diligently, preserving them from... (1) II Machab. X, 14.

[*Latin ed. p. 720*]

720 Letters: Every offense is a mortal wound and leads to maturity. Thus, under their influence, flourish as magnificent fruits enlightened love of truth, honesty, a sense of duty, firmness of character, and generosity in sacrifice. And what is more fitting to ensure the order and prosperity of states? However, dear sons, since the malice of the world pursues you to the point of attempting to perform useful and commendable deeds by trampling upon the most sacred rights in your persons, and believing thereby

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to render homage to God (1); adore with confident humility the designs of God. If He sometimes allows justice to succumb to violence, He permits it only for superior purposes of greater good; moreover, it is His custom to effectively assist and, through unforeseen means, to help those who suffer for Him and trust in Him. If He places obstacles and contradictions in the path of those who, by their state, profess Christian perfection, it is in order to test and strengthen their virtue, and especially to strengthen and fortify their souls, exposed to weakening in a prolonged peace. Therefore, strive to correspond to these paternal designs of God. Devote yourselves with redoubled fervor to a life of faith, prayer, and holy works. Let discipline be maintained among you, fraternal union of hearts, humble and prompt obedience, austerity of detachment, and pious zeal for divine praise. May your thoughts be elevated, your resolutions generous, and your zeal unflagging for the glory of God and the extension of His kingdom! Since, through the misfortune of the times, you are either already struck or threatened by pernicious laws of dispersion, you will recognize that circumstances impose upon you the duty of defending with more zeal than ever the integrity of your religious spirit against the dissipating influence of the world, and of always being prepared and seasoned against every trial. On this point, We remind you that various instructions have been addressed to the Regulars by this Apostolic See, and that other prescriptions are issued by the Superiors themselves. It is necessary that both be maintained in their full force and be observed conscientiously. (1) John 16:2.

[*Latin ed. p. 721*]

LETTERS 721 And now, religious men of every age, young or old, lift up your eyes to your illustrious Founders! Their maxims speak to you, their statutes guide you, their examples precede you! Let your most tender and most sacred endeavor be to listen to them, to follow them, to imitate them! Thus acted a great number of your elders in the most difficult times. Thus they transmitted to you a rich inheritance of invincible courage and sublime virtues. Show yourselves worthy of such fathers and such brothers, so that you may all, with just pride, say: We are the sons and brothers of the saints! Thus you will obtain the greatest benefits for yourselves, for the Church, and for society. By striving to reach the degree of holiness to which God has called you, you will fulfill the designs of His Providence concerning you and you will merit the abundant rewards that He has promised you. The Church, this most tender mother who has filled your Institutes with her favors, will obtain from you, in return, a more faithful and more effective cooperation than ever in her mission of peace and salvation. Peace, salvation, these are the two urgent needs of the present society, afflicted by so many causes of corruption and weakness. To shake it, to uplift it, to bring it repentantly to the feet of this most merciful Redeemer, there are needed men of superior virtue, of eloquent speech, of an apostolic heart, who also

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possess the mediating power to attract heavenly graces. You will be such men. We do not doubt it, and you will thus become the most opportune and most distinguished benefactors of society. Dear sons, the charity of the Lord inspires us with a final word to strengthen in you the sentiments with which you are animated towards all those who attack your Institutes and seek to hinder your work. As much as you must, by conscience, maintain a firm and dignified attitude, so much must you, by profession, always show yourselves gentle and indulgent, because it is in the religious man that the perfection of this true charity must particularly shine forth, a charity that is touched by compassion, but knows no anger. Certainly, when you see yourselves thus repaid with ingratitude, when you see yourselves thus rejected, nature is saddened, but, dear sons, let faith comfort you with its oracles! She Acta, Tom. XXXIII. fase. CCCXCVI. 46

[*Latin ed. p. 722*]

722 The *Litterae* remind you of the sublime exhortation: "Triumphet over evil with good" (1). They bring to your attention the incomparable magnanimity of the Apostle: "We are cursed, and we bless; we are persecuted, and we endure it; we are blasphemed, and we bless" (2). Above all, they invite you to repeat the supplication of the supreme Benefactor of the human race, Jesus, suspended on the cross: "Father, forgive them!" Therefore, dear sons, be strengthened in the Lord (3). You have with you the Vicar of Jesus Christ; you have with you the entire Catholic world, which looks upon you with affection, respect, and gratitude. From the heights of heaven, your glorious fathers and your glorious brothers encourage you. Your sovereign Head, Jesus Christ, girds you with His strength and covers you with His virtue. Beloved sons, address yourselves to His divine Heart with filial confidence and with fervent prayers. You will find there all the strength necessary to overcome the most furious angers of the world. There is a word that resounds through the ages, always living, always full of consolation: "Be of good cheer; I have overcome the world" (4). May you find even greater consolation in our Blessing, which, on this day dedicated to the triumphant memory of the Princes of the Apostles, We are pleased to grant in its fullness to each and every one of you, and to all and each of your families, who are very dear to Us in the Lord. Given at Rome, near Saint Peter, on the 29th of June in the year 1901, the twenty-fourth of Our Pontificate.

LEO XIII, POPE.

(1) Rom. XII, 21.
(2) Cor. IV, 12-13.
(3) Eph. V, 10.

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(4) Ioann. XVI, 33.

[*Latin ed. p. 723*]

725 FROM THE HOLY CONGREGATION OF THE COUNCIL OF FIRMANA, CONCERNING MARRIAGE, February 28, 1901. Session 24, chapter 1, On Impediments to Marriage. SUMMARY OF THE CASE. Elvira, of Fermo, was captivated by love for a certain Humbert, and, deceived by the hope of marriage, became pregnant and gave birth to a son. In order that the disgrace to the family, which is of civil standing, and to the legitimately born offspring might be avoided, Elvira's parents and relatives did everything possible to persuade Humbert to take Elvira as his legitimate wife. However, the man is said to have strongly resisted, claiming that he could not yet enter into a civil marriage, because, as he said, he was not financially able to support a family. Likewise, the same man refused to enter into a religious marriage, because he declared that he was not devoted to any religion, and protested that he would not, by means of the marriage ceremony, enter into any bond. However, pressed insistently by Elvira's parents, and threatened by the man that if he did not celebrate the marriage, they would leave him alone to bear all the expenses for raising the child, the man finally agreed to celebrate the marriage; but not in a public church, but in some private house. However, when everything was prepared for the celebration of the marriage, the parish priest, after a conversation with Humbert, since he perceived that the man did not at all believe in the sanctity and firmness of the marriage, refrained from celebrating the marriage, alleging the absence of the ritual book; but it appears that he acted in this way in order to consult a superior on this matter. Indeed, on the following day, the Vicar General informed the parish priest that Humbert had retracted his protests regarding the invalidity of the religious bond, either through a written declaration, or verbally, and from this...

[*Latin ed. p. 724*]

724 From the records of the Council, the aforementioned parish priest was consulted regarding assisting at a marriage. Therefore, on the same day, namely April 1st, 1892, in the house of Angelis, the aunt of the actress, the marriage was celebrated with the most sacred rites of the Church between Elvira, then 30 years of age, and Humbert, of nearly the same age. But on the same day, after the celebration of the marriage, if the testimony of the aforementioned Elvira is to be believed, the man, having openly declared in the house of the bride that, although he had not been prepared to enter into a civil marriage, he intended to keep the bride not as a wife, but as before, as a mistress. This caused great distress to the woman and her parents; they were indignant, and therefore they rejected him from the house, and conjugal cohabitation was never restored; indeed, apart from rare visits, the husband was never alone with his wife, so that they

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might consummate the marriage. The man, after a month had passed since the beginning of the marriage, departed with his family for Rome, and established a residence there. The woman herself, after a year, went there as well, hoping that she might, through closer proximity with her husband, eventually persuade him to enter into a civil marriage. Which, it seems, she never achieved. While the woman resided in Rome, as she herself states, she had other, purely formal relations with her husband, without, however, any cohabitation or attempt at the consummation of the marriage. Finally, the unfortunate woman, in order to provide for herself and her son through the fruits of her own labor, went to Naples, where she entered into relations with a certain Enrico, and with him, at the beginning of the year 1897, she entered into a civil marriage. Shortly thereafter, in the month of August 1897, the same woman sent a petition to the Most Holy Prince, earnestly requesting that her marriage, which she had contracted with Humbert, be declared either null and void due to the lack of true consent on the part of the man, or that a dispensation be granted for the marriage, which was valid but not consummated. The aforementioned petitions were sent to the Curia of Firman, so that a process might be instituted, both regarding the alleged nullity of the marriage.

[*Latin ed. p. 725*]

FIRMO, 725, concerning the matter of consummation. Therefore, in a tribunal established by the Curia of Firmo, the woman was questioned in Naples, by delegation, while the man was heard in the City [Rome], where he resides. Among the witnesses summoned for examination was the parish priest, who performed the marriage ceremony, as well as the spouses DeAngelis, in whose house the marriage appears to have taken place. After all these proceedings, the Curia of Firmo transmitted the case to the Sacred Congregation; however, the case was returned to the same Curia several times for the completion of the records. In the meantime, in a certain letter, which the general vicar of the Curia of Firmo gave to the parish priest on April 1, 1892, in order for him to assist at the marriage, the following words were included, among others: "and having also declared to a person of full faith that, by means of religious marriage, he is bound." Regarding this matter, I inquired of the Archbishop of Firmo, as to what person of worthy faith was being spoken of. But the Archbishop replied: "This is Joseph Titus De Angelis, a man certainly endowed with the best morals, devoted to the Catholic religion, of whose veracity no doubt can arise. As it appears from the records already transmitted to the Sacred Congregation, the aforementioned Joseph Titus De Angelis was subjected to examination as a witness; however, I have not been able to arrange for a new examination of the same person, because he is absent from this Archdiocese and resides in Rome. Furthermore, a new examination seems unnecessary, because from his testimony, it is clearly evident that nothing

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new is to be expected from him." Furthermore, it was ordered that the aforementioned general vicar be summoned for examination, and that he be questioned about the meaning of the words he used in that letter.

A SYNOPTIC DISCUSSION.

THEOLOGIAN'S OPINION.

Two doubts arise from the very nature of the matter, so to speak:

1. Whether the marriage of Elvira with Humbert was not, from the beginning, lacking in free and informed consent?

2. Whether this marriage, whatever its nature, remained unconsummated?

[*Latin ed. p. 726*]

726 He asserts, without hesitation, that the agreement reached with St. Gregory's Council concerning Humbert was fabricated and null, because, indeed, the aforementioned Humbert, due to his irreligiosity, did not acknowledge any validity whatsoever to this "religious ceremony." Furthermore, after the marriage was celebrated, the aforementioned Humbert persisted in his conviction regarding the futility of such a ceremony; "... both at the time of contracting the marriage, and afterwards, that very evening, he told me: I did it to please you; before the law, you are just a woman; I have no bond with you; and, moreover, with the ceremony just performed, I have done nothing; you are always a stranger to me." Therefore, from the testimony of the actress, it is clear that the man, having been pressured by the woman and her family, finally consented to the religious ceremony, but without attributing any validity to said ceremony, and without having any intention or belief that he himself was binding himself in any way, or, in other words, without intending in any way to truly and genuinely celebrate a marriage. And if we find the assertion of the actress sufficiently corroborated, both by the confession of the husband and by the testimonies of witnesses, then, it is clear, the case will easily be resolved, since no true marriage can be said to exist if there is a total lack of consent to a true marriage. From the responses of the husband, it is clearly evident that Humbert was greatly pressured to consent to a religious marriage with the woman, and that he did consent to this "religious" marriage, at least externally, before a legitimate priest and two witnesses, although, according to him, this marriage did not attach any validity to it with regard to its effects, such as those pertaining to civil law and others; but it is not proven with equal certainty that he denied any validity to this marriage whatsoever, as will be explained more fully below. And among the numerous witnesses brought in or summoned in the case, there are those who seem to be distinguished

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as witnesses who, having been directly and personally involved in various circumstances of the case, testify about what they saw or know personally, and therefore, their testimony...

[*Latin ed. p. 727*]

FIRMO, dated the 7th of [month] [year], is considered to have more evidence; from there, witnesses who, through the highest authorities, have learned of the matter or have heard of it from others. And first, the Father of the Actress: "It seems to me that Humbert was induced to the religious act more to free himself from the burden of supporting and educating a child he had, than from an intention he had of contracting marriage." Then, the witness adds that his wife, as well as the Sister, with all their heart, tried to persuade Humbert to enter into a religious marriage; and to the subsequent question: "Did Humbert, after these practices, make any declarations regarding the bond and the obligations that he would have to assume in marriage?" he answered without hesitation: "I know of none." Certainly a surprising response! For there exists in the records a letter from Humbert himself to the witness, the father of the actress's wife, in which the aforementioned Humbert expressly declares that he willingly wished to take Elvira in the ecclesiastical forum, and he promised a civil marriage. Of this written declaration, nothing was known to the parents of Elvira, nor did the Tribunal discover it! Clementina, the Mother of the Actress, knows that Humbert "was always opposed to marriage." The witness herself "wished that this marriage had been performed, but the practices (to persuade Humbert) were carried out by others" (the Husband of Clementina, as well as Elvira, and others, contrary to this, affirm that Clementina herself insisted with all her might). As for the outcome, she recalls that the first time, the Parish Priest, after a rather long conversation with Humbert, left without assisting at the marriage, and that the next day he returned and did assist at it. Regarding the written declaration, of which we spoke above, the witness knows nothing. And this is all from the side of the Mother of the Actress. In contrast, the Sister of the Actress, Marianna, is more explicit and precise. Regarding this deposition, it is important to note: that the witness, Humbert, after his conversation with the Parish Priest...

[*Latin ed. p. 728*]

728 From the record of the meeting prepared by the Congregation, or having ignored it or concealed it: that the Parish Priest, after the aforementioned declaration, abstained from any assertion concerning the internal dispositions of Humbert. Furthermore, on April 1, 1891, the Vicar General of the Firmana curia wrote to the Parish Priest that the aforementioned fiancé declared to Joseph Tito De Angelis, most devoted to the Catholic religion, that he considered himself bound by a religious marriage. However, the Consultor carefully read the deposition once, then again, and a third

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time, indeed, I scrutinized it; and not even a single word was found therein that, even remotely, suggests the assertion attributed to him concerning Humbert's confession, "that he was bound by a religious marriage." The deposition of the Reverend Father Dominic Fontevecchia, Parish Priest of Saint Matthew's, who was present at the marriage, is of the gravest importance, and who, at the urgent request of the Congregation, appeared before this Tribunal for a fuller elucidation of the matter. It seems that the Parish Priest believes that Humbert did not genuinely consent; but since his deposition is closely connected with the aforementioned declaration, I will refer to it below, where it is specifically discussed. As for the other witnesses, so that time is not wasted, I note only this: that each of them "understood," "heard it said in the family," "learned it from Elvira," that Humbert consented to the marriage only in order to satisfy Elvira and her family, or in order to free himself from supporting the child, but without having a true intention of entering into marriage. On the contrary, in support of the genuineness of the consent, there is the very declaration of Humbert himself, willingly accepting the religious marriage with Elvira and subsequently promising a civil marriage, a declaration, I say, addressed to Elvira's father, which reads as follows: "To Mr. Enrico. Since I desire that the religious marriage be carried out, I declare that I am happy."

[*Latin ed. p. 729*]

In FIRMANA, on the 7th of September, he promised to marry his daughter Elvira religiously, and he also promised to marry her civilly, when he found himself in circumstances that would allow him to form a family. On March 31st, 1891, the parish priest, after a conversation with Humbert, was fully convinced that the latter, having been persuaded, was preparing to perform the religious ceremony, but without any intention of entering into any binding agreement; and therefore, the parish priest rightly avoided assisting in such a ceremony. On the following day, April 1st, 1892, having received letters from the Curia regarding this matter, which had informed him of the difficulties, the praised parish priest gladly assisted at the marriage, because, although there might still be some doubt about the genuine intentions of the bridegroom, the permission granted by the Curia dispelled any doubt about the propriety of the action. Therefore, on the part of the Vicar General, there was no reference to a written declaration; hence it is clear that he, due to the passage of time, did not remember, or perhaps, at that time, did not consider it necessary. Furthermore, this person, of the most worthy faith, namely Advocate Titus de Angelis, as mentioned above concerning the declarations made to him, before the Tribunal, asserted nothing, but on the contrary, denied. However, it is certainly true that, at that time, the Curia of Fermo had received declarations, which it considered fully sufficient to proceed safely with the marriage: "Neither His Excellency the Archbishop, nor I," said the Vicar, "would have allowed

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the Sacrament to be exposed to the danger of nullity, and therefore, the declarations received were judged sufficient." Therefore, the crux of the entire difficulty lies precisely in that repeatedly mentioned declaration, which, therefore, it is necessary to examine more closely. It would be blasphemous to call the authenticity of the aforementioned declaration into question, since it is inserted in the records as a document, in a very serious matter, transmitted by the Archdiocesan Curia to the parish priest in his official capacity. It is, however, surprising that the father of the bride, to whom the declaration was addressed, and the mother, and other relatives and affine witnesses, induced by the bride, and specifically Titus De Angelis, who most likely intervened in this matter,

[*Latin ed. p. 730*]

730 From the records of the Sacred Congregation, it appears that, concerning a certain declaration – although under a very general formula – the response was unanimously: "It costs me nothing; I do not remember anything of the sort; I do not know." All of this was said, not certainly to suggest any suspicion against the Witnesses, duly sworn, and much less against the officials of the Curia, but only to place the greatest difficulty of the present cause in plain view. What, however, the aforementioned declaration truly means, given the tenor and context, is sufficiently evident. The groom expresses his desire for the religious marriage to be completed: "since I desire that the religious marriage be completed," and therefore declares that he is willing to marry Elvira religiously: "I declare that I am happy to marry your daughter Elvira religiously," and indeed, he promises to marry her in the same manner, but with different financial conditions. From these words, it is clearly, plainly, and undoubtedly evident that Humbert genuinely consents to the ecclesiastical marriage, and therefore the cause appears to be concluded. First, I say, to the naked eye: for if the matter is examined more closely, the difficulty is removed, but not entirely. For, given that Humbert truly and genuinely desires the religious marriage, and given that he willingly and properly submitted himself to the act or rite of marriage, there still remains, if one may say so, the most important and essential doubt: whether Humbert has attributed absolutely no efficacy to this religious rite, and whether he recognizes no moral binding force in it? Here lies the true knot of the question. It is inappropriate to apply the deductions of Theologians and Canonists, such as those found in Coscius and De Justis, and Sánchez, and Gasparri, etc., concerning simulated consent: for in this case, the consent was not simulated in the religious act, but was true; but whether that consent was given for a true marriage, or rather, only for that religious act, for that "ceremony" which, in the mind of the consenting party, was an empty and meaningless formality? The latter is affirmed with a clear voice by the actress, as the Witnesses testify, and is

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somewhat affirmed by the Parish Priest himself, and all of these...

[*Latin ed. p. 731*]

In FIRMANA, the persuasion is not unworthily strengthened by the testimony of a principal witness, namely Zenaida De Angelis, who states that she heard Humbert say, in order to persuade him to the "religious act," that "this act would cost him nothing, given his antireligious convictions." This is confirmed by the subsequent circumstances: for, immediately after the marriage, the newlyweds returned to their respective homes, and there was never any true cohabitation. Indeed, if we are to believe the actress, on the very day of the marriage, Humbert openly declared to Elvira: "I have no bond with you; even with the ceremony just completed, I have done nothing; you are always a stranger to me." These words certainly demonstrate that Humbert attached no importance, no bond, to the aforementioned ceremony. However, it is only fair to note that only the actress recounts the groom's words. Humbert himself only admits that, after the ceremony, he was called away and left. But, contrary to such testimonies and deductions, certain objections arise immediately from the intrinsic conditions of the case: Firstly, it seems quite inconsistent that Humbert, due to his irreligiosity, as the actress and the witness claim, was fully convinced of the futility of the religious act, and that he opposed this act with so much resistance, for so long. If he had considered the "religious ceremony" as a mere mockery, he certainly would have freed himself from it "more quickly." Secondly, the motives alleged by those who urged Humbert to celebrate the religious marriage, namely "to restore honor and peace to the girl and her family - to legitimize the child - to repair the scandal - to avoid the burden of supporting the child - to avoid upsetting Elvira's mother," and even another motive of Humbert himself: "so that Elvira would not be driven out of the house, and to free himself from annoyances," these motives, I say, and similar ones, do indeed imply consent to the religious act.

[*Latin ed. p. 732*]

732 From the Holy General Council, I understand, there is agreement, but it does not exclude the validity of a true marriage; indeed, it somewhat includes it. Thirdly, the religious act, to which Humbert truly consented, should be considered fully valid and firm in its effects, unless its invalidity is clearly demonstrated. For, as the legal maxim states, that which is done has more weight than that which is feigned. What would become of marriages, especially in our present times, if spouses, after having in fact celebrated a religious marriage, were permitted to allege, without conclusive proof, that they did not genuinely consent to the true marriage, but only to the religious act? Quarten, the very actress, due to the difficulties of her case, and as some legal experts, as can be seen from the records,

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have rightly taught, after having exerted herself in demonstrating that the spouse did not consent to the true marriage, but only to a mere religious act, abandons the field, that is, she relinquishes the cause of nullity, and simply requests a dispensation for the unconsummated marriage. If the marriage has not been valid, at least with some probability, it is no longer clear how a dispensation can be granted for a marriage that is entirely null. Fifthly, Humbert himself, whose words, as is evident, far outweigh all other testimonies in this matter, does not entirely deny the validity of the religious act. What is already present is completed. It matters little whether Humbert – sincerely or not? – maintained that a family could not be established except through a civil act; provided that he truly performed, as is stated in the text, the religious act, to which he acknowledged some value. What if the aforementioned Humbert had been questioned, under oath, duly administered, even regarding his written declaration, in which he both expressed his desire for marriage, and declared himself ready for a religious marriage, and furthermore promised a civil marriage? But in the interrogations conducted by the Court of Fermo to the Court of Rome,

[*Latin ed. p. 733*]

FIRMANA, 755, having received the documents officially, there is nothing, as already stated, that refers to the aforementioned declaration! Other things are read, in the examination of Humbert, answers which, in my humble judgment, reveal that, whatever the witnesses may say, he did not entirely fulfill his religious marriage: Thus: "I believe... that having a desire (Elvira) to marry another also in the Church, she wishes to dissolve my marriage." It is not resolved unless what is, at least in some way, considered bound is acknowledged. "The reason perhaps depends on the fact that we are joined in marriage and separated in body." And elsewhere, he confesses "that, through an aunt... he entered into that marriage, which was then consummated." The last answer of Humbert seems not to be to be passed over in silence. When asked about the possibility of reconciliation, he replied: "Absolutely not, both because her conduct with respect to me is not to my satisfaction, and because I have learned that she has entered into a civil contract with another man." What, I pray, can concern Humbert about the way in which Elvira acts, if he considers Elvira to be extraneous to him? If she is not his wife, why does he take offense at the fact that she wishes to be the wife of another? Therefore, having read the documents of the case more than once, and having, according to my judgment, weighed the intricacies and reasons from this side and that, that is, having considered the evidence for and against the genuineness of the consent, I believe that, although with some hesitation, it must be concluded: From the documents, as they are, it does not appear that Humbert did not truly consent to Elvira's marriage. Therefore, the cause of nullity alleged being removed, there remains to be discussed the consummation or non-consummation: which now seems to

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be able to be explained briefly. The actress vehemently asserts the lack of consummation: Nothing else, in the examination of the actress, concerning the consummation. The husband agrees, although he does not precisely speak of consummation or non-consummation, but of cohabitation: "after the marriage... we did not live together." However, the husband contradicts, for he confesses not one, as the actress asserts, but several relations with Elvira.

[*Latin ed. p. 734*]

734 From the acts of the Sacred Council, having examined various testimonies, I have been able to determine approximately the dates of Humbert's journey to the City, as well as those of Elvira: He left Fermo in the last days of April 1892; Elvira, on the other hand, arrived in Rome in the following month of October, and remained there for approximately two years. From the testimonies of the witnesses, nothing certain can be proven either for or against the consummation of the marriage. In summary: The actress vehemently affirms the lack of consummation; the husband, likewise, although with a more general formula, asserts that the marriage was not consummated; the witnesses deny cohabitation in Fermo; in Rome, they either do not know or, based on mere suspicion, deny it, and they offer no testimony regarding the consummation or lack thereof; only one firmly maintains, based on the statements of the actress, that the marriage was not consummated. Therefore, considering that, in this specific case, there is absolutely no proof, as is said in the case of Coarctata, regarding the consummation or lack thereof, because the husband, both in Fermo and in Rome, could easily have seen himself, and in fact saw himself on several occasions; and considering also the other testimonies concerning the consummation or lack thereof, which are truly insufficient and inconclusive, I am of the opinion: It is not sufficiently proven that there was a lack of consummation in this case.

OPINION OF THE CANONIST. Elvira harbored affections for a certain Humbert, and, deceived with the hope of marriage, she became pregnant. Then, in order to protect the family's honor and reputation, Elvira's parents and brother urged Humbert to take Elvira as his wife. But the man, showing absolutely no sincerity, denied that he would enter into any marriage, whether religious or civil, since he boasted of being an atheist; nor would he enter into a civil marriage, if indeed it were necessary for establishing a family. As an atheist, he considered himself, just like anyone else, not bound by the laws of natural morality, and he believed that he was free to abandon the young woman, whom he had dishonorably deceived with impure desires under the false pretense of marriage. But if the sense of honor could not induce the atheist to enter into a marriage, whether religious or

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civil, then...

[*Latin ed. p. 735*]

In Fermo, 755 men were able to achieve something through their love of money. For, when he learned that the Catholic family of Elvira would not allow a child to be received into their home unless a religious marriage was first contracted between himself and Elvira, in order to spare the expenses of a nurse, he entered into a marriage according to ecclesiastical rites. However, Elvira never cohabited with Humbert; indeed, she eventually abandoned him in Naples, when she arrived to provide for herself and her child, and she found another man to whom she would surrender herself in dishonor, entering into a civil marriage, a woman eager for infamy. Now, in order to secure the well-being of her soul, Elvira insists that the marriage contracted with Humbert either be dissolved by the Roman Pontiff, as if it were valid but not consummated, or be declared null and void due to a lack of consent on the part of the man. We must inquire whether this desire of Elvira can be fulfilled. And first, can counsel be given to the Most Holy Lord, so that He may deign to dissolve this marriage as if it were valid but not consummated? Briefly, I answer that it cannot. The reason is that, for this to be the case, it must be morally certain that this marriage remained unconsummated. Furthermore, this is not proven. [For we know that Elvira greatly endeavored to persuade Humbert to enter into a civil marriage with her, and that Humbert indeed refused, but that Elvira continued to pursue him with a shameful love, when she proposed that he would remain with her as a concubine. Furthermore, Elvira, when she went to see the child, who had been entrusted to a nurse, before the marriage was contracted, was accompanied by a slave girl, and, after the marriage was contracted, perhaps even alone, she went to the countryside to the nurse's house. Moreover, Elvira, who, while still unmarried, was able to elude the vigilance of others so that she could foster illicit loves and engage in shameful dealings with Humbert for several months, could she not have done so even more easily, now that she was married and living at home? And certainly, Elvira, after the marriage, as Marianna, the actress's sister, testifies, was kept under less strict supervision at home. But even in Rome, where Humbert had gone,

[*Latin ed. p. 736*]

756 From the Council of Elvira alone came the impetus for her to finally enter into the civil marriage. What is surprising, if she sometimes resorted to flattery to soften his heart towards the union? Indeed, Humbert and Elvira both testified under oath that they had never consummated the marriage; but besides the fact that the sworn assertion of the spouses, though worthy of belief, does not constitute complete proof of non-consummation, our spouses do not deserve much credit. Humbert is an atheist; moreover,

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an atheist, even if he swears (though I do not know what an atheist swears; does he not call upon God as a witness, whose existence he does not admit?), is not worthy of much trust. Elvira, on the other hand, is too eager for the marriage with Humbert to be dissolved and for her new union to be strengthened; therefore, she is somewhat suspect. But was the marriage that Humbert and Elvira contracted valid? At first glance, many and very serious circumstances seem to support the validity of this marriage. Among these, first and foremost, is the deliberation of the Curia Firmana, which, when asked by the priest who was unwilling to assist at this marriage what he should do in this case, responded that he should not refuse to be present at this contract. However, if the matter is investigated more closely, it seems necessary to come to a contrary conclusion and to assert that this marriage was invalid. And indeed, it is certain that marriage, even under the aspect of the Sacrament, consists only to the extent that the contract consists. The matter requires no certain proof; it is sufficient to state what is expressly asserted in the Constitution *Arcanum* of February 10, 1880, by Leo XIII: "Marriage is itself the contract, if it has been made according to law." Moreover, if marriage is itself the contract, then true consent of the contracting parties to the object of the contract is required for the essence of marriage; and this is clearly stated by tradition and by law, when it is asserted that marriage is entered into solely by legitimate consent, c. 14 *De spons.* and *matr.*, X, IV, 1, and in other places. And we are expressly taught this by Nicholas I in his responsions.

[*Latin ed. p. 737*]

FIRMANA, 737, in response to the inquiries of the Bulgarians, chapter 3, with these words (which Innocent III also used in chapter "Tuas dudum" of *De sponsa duorum X, IV, 4*, and which Gratian recounts in chapter 2, title 25, question 2): "It suffices, according to the laws, that the consent of those involved be present. If this consent is lacking in marriages, all other things, even if accompanied by intercourse, are rendered void." However, the object of the contract in our case is the perpetual and indissoluble right over the body, which the bridegroom gives to the bride, and vice versa, the bride gives to the bridegroom. This transfer of such a right naturally tends towards the end that, through perfect union, man and woman become one flesh and constitute a single principle of generation. Hence, St. Thomas writes excellently in the *Supplement*, question 45, article 1, paragraphs 1 and 2: "Marriage (insofar as it is considered not in its making, but in its being) is not simply consent (for consent is the efficient cause of marriage in its being; it is proper to the efficient cause to be external to its effect, or distinct from it), but rather a certain union of persons ordered towards a single end (namely, the principle of generation), which consent brings about." Therefore, if marriage is a union of persons ordered towards a single principle of generation by natural law, it necessarily follows that

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three goods of marriage are included within the marital consent, namely offspring, the sacrament, and fidelity, so that if any one of these is excluded, there is no true consent in the marriage contract, and therefore there is no marriage, even if the external form of marriage has been observed. And this is what Gregory IX teaches in the last chapter of *De condit*, appendix X, IV, 5, where he says that conditions contrary to the essence of marriage, if inserted into the marital consent, render the marriage void, such as if one were to say to the other, "I will marry you, provided that you avoid the generation of offspring" (which is contrary to the good of offspring), or "until I find someone else more worthy in honor or abilities" (which is contrary to the good of the sacrament), or "if you give yourself to adultery for the sake of gain" (which is contrary to the good of fidelity). It should not be said, as some maintain, as St. Alphonsus recounts in *Acta*, volume 33, page 396, paragraph 47.

[*Latin ed. p. 738*]

738 From the Council of Trent, stating that their opinion is probable, *Theologia Moralis*, III, 710, it is understood that the obligation is established and therefore subsists even in the one who, knowing the obligation of the contract, may indeed wish to oppose it, but does not wish to obligate himself. For, above all, this opinion appears to be false, because, since an obligation cannot arise in a contract unless from the will, no obligation can arise where the will to obligate oneself is absent; but furthermore, whatever may be the case with this opinion, for which, certainly and without consultation, some are alleged by St. Alphonsus, who, in the aforementioned passage, too trusting of the *Salmanticenses*, incorrectly cited Lessius, who, not in the place cited by the *Salmanticenses*, but in *De Iustitia et Iure*, Book II, chapter 42, question 8, number 36 and following, says that even he who, with a feigned intention, promises something under oath, is obligated to fulfill it by the force of the oath; but in the same place, number 39, he denies that this is said in contracts, the obligation of which is entirely dependent on intention, as is the case in marriage, unless other causes concur. It is certainly established that marriage is invalid when someone has the intention of contracting, but retains for himself the right to dissolve the marriage, should the other party fall into adultery; unless the contrary will to contract, according to the law of Christ, prevails. Compare the letters of Pius VI to the Archbishop of *Pragensem*, July 11, 1789, and the resolution of this Sacred Congregation, August 1, 1784. Therefore, it follows from what has been said that he who would not wish to assume the obligations naturally inherent in the marriage contract, does not validly contract marriage. For he would not be making that consent which is necessary for this contract, and therefore would not consent to the marriage. However, it must be carefully noted that this is not the same as saying this of one who merely has the intention of not fulfilling the obligation, since this will can entirely consist

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with the will truly to contract, as is evident from itself; and all agree, and Lugo, in *De Iustitia et Iure*, Disputation XXII, number 36, proves it. All of these things also receive confirmation from what is essential to the marriage of Christians, namely, the Sacrament. For all Sacraments consist of...

[*Latin ed. p. 739*]

FIRMANA 739. It is certain that marriage consists of matter and form, and therefore it follows that marriage itself consists of matter and form. Furthermore, setting aside the various opinions of the Doctors concerning the determination of the matter and form in marriage, whether someone wishes to consider consent as the form, and bodies as the matter; or whether someone wishes to find the reason for matter and form within the very consent itself, as tradition teaches, it is certain that he who does not include that consent, which we have mentioned, or does not include it as either the form or the matter, lacks both, and therefore the Sacrament is not present. Moreover, among Christians, there is no marriage which is not a Sacrament; therefore, he who does not consent in the manner we have described does not enter into marriage. And this one observation is sufficient. We have said that the object of the matrimonial contract is the perpetual, indivisible, and mutual right of the man over the body of the woman, and vice versa. But he who does not wish to accept the obligations inherent and natural to this contract, does not grant the other that right, which is the object of the contract; therefore, the contract, and therefore the marriage, is not perfected. With these premises, we come to our case. And concerning this, if we can prove that Humbert did not, through his actions, intend to assume the obligations inherent and natural to the matrimonial contract, we will prove that the marriage between him and Elvira was null. Moreover, this seems entirely possible to prove. It is clear from the records that, after Humbert had violated Elvira and made her pregnant, he had no intention for several months of uniting her to himself in a matrimonial bond. Elvira's parents were those who urged him to marry Elvira, and they were right to do so. But from the records it also appears that he initially refused to heed these warnings and just complaints, and that he finally acquiesced only in order to put an end to the complaints; so that Elvira, who was said to be driven out of her parents' house, would not suffer further harm; and to protect his own property, by ensuring that the child born to Elvira would be cared for by her parents, using this argument: that he was an atheist, and therefore had no obligation to provide for the child.

[*Latin ed. p. 740*]

740 FROM THE DECREES OF THE COUNCIL, it is understood that a certain obligation arises from ecclesiastical rites, which some consider a mere formality; but a citizen is not in any way obligated, since he himself does not impose a civil marriage rite. And indeed, he always and abso-

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lutely denied that he intended to unite himself to Elvira through a civil ceremony; for, although he sometimes promised this, he never fulfilled it, despite Elvira's repeated requests. This promise does not seem to present any difficulty for a man who refuses to fulfill a promise of marriage given to a woman who, under the hope of marriage, has become pregnant, unless, as we have said, he acts in a certain way. These things are abundantly confirmed by the proceedings, and they receive the greatest confirmation from the testimonies given by the Reverend Mr. Fontevecchia, the parish priest, who attended the marriage. He strongly suspected that Humbert did not intend to enter into the marriage, and he became even more certain of this when he was asked to go to the house of Mr. De Angelis to witness this marriage; for that man, an atheist, did not even deign to enter the church to celebrate the marriage, and he spoke to Humbert; therefore, he was justified in abstaining from attending this marriage. These things, as expressed by the parish priest, are also affirmed by almost all the other witnesses, at least insofar as they refer to the common opinion and sentiment. But they are also confirmed by the man himself. Therefore, if we give credence to Humbert's testimony, it must be said that the marriage, for him, did not have the force of a promise, that is, a promise that he would one day take Elvira as his wife; indeed, Humbert expressly states that he did not consider himself, nor did he intend, to assume any obligation through that act. If these things are true and certain, then it would undoubtedly be necessary to declare the marriage null. But there are two things that present a difficulty. The first is the written testimony that Humbert gave to Henry, Elvira's father, regarding the marriage with Elvira. The second is the permission that the Curia of Fermo granted to the Reverend Mr. Fontevecchia, the parish priest, to attend this marriage, as we mentioned above.

[*Latin ed. p. 741*]

FIRMANA. Therefore, it must be determined whether these two documents contradict what we have previously established. The testimony written by Humbert is as follows: "Because I desire that the religious marriage be fulfilled, I declare that I am willing to marry religiously his daughter Elvira, and I promise to marry her also civilly, when I find myself in a condition that will allow me to establish a family." Furthermore, if one considers carefully, these letters say nothing that contradicts the intention and meaning that Humbert had previously expressed. These two letters merely assert that Humbert wished to perform the religious rite of marriage with Elvira, and he promised that he would, at some point, also marry her civilly. Surely, a man who makes no account of the ecclesiastical rite of marriage, who claims not to be obligated by it, and who openly says so, can say all of these things? Indeed, in a man who conforms his life to the laws and institutions of the Christian religion, these words mean something

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different, but in an atheist, what do they signify other than that Humbert promised what he did, and then did not fulfill? I confess that I have read and examined these letters more than once, and indeed many times, and I have found nothing in them except the promise that he did not later fulfill, namely, to marry Elvira also civilly. Moreover, these letters seem to have been written solely to deceive ecclesiastical authority, since they were written on the very day that the marriage was celebrated. For although the Most Reverend Archbishop of Fermo asserts in his letters to this Sacred Congregation, dated September 25, 1897, that the marriage was celebrated on April 1, 1893, this appears to be a falsehood, since the letters of the Vicar General, granting the Paroch the power to assist at this marriage, were dated April 1, 1892. Furthermore, if these letters were written on the very day that the marriage was celebrated, or the day after, as is deduced from the records, why did the Paroch refuse to assist at the marriage, since Humbert did not believe that he had assumed any obligation?

[*Latin ed. p. 742*]

742 FROM THE PROCEEDINGS OF THE COUNCIL: From this action, since the letters, as we have said, contain no explicit retraction of Humbert's perverse and irreligious sentiments; indeed, they seem to confirm that he persisted in his previous opinion, and that he carefully chose words in writing the letters, which did not contradict his sentiments, and yet served to obtain the assistance of the Parish Priest in the marriage. But how could the Curia of Fermo have permitted the Parish Priest to assist at the marriage, if it was not convinced that Humbert had receded from his opinion? And truly, it was persuaded of this, as we shall see immediately. In the meantime, the letters of the Reverend Lord Vicar General of Fermo to the Parish Priest of Fontevecchia read: "Having the well-known groom finally given the declaration which I enclose, and having also (in revocation and mitigation of the words spoken last night) declared to a person of full confidence that he is bound by the religious marriage; His Excellency, the Most Reverend Archbishop, leaves it to the judgment and prudence of Your Reverence to bless the marriage, dispensing the spouses from the banns and the prescribed time, with the faculty of celebrating it even in the evening, if the matter is secret. Your Reverence must, however, first ascertain that there is no impediment, and that you are aware of the free state of both spouses." Therefore, the reasons why the Curia of Fermo, recanting from what it had previously responded to the Parish Priest, finally conceded that the Parish Priest should assist at this marriage, were: because Humbert had given that written declaration, of which we have spoken above, and because a person worthy of trust affirmed that Humbert considered himself bound by the ecclesiastical marriage. These were the letters of the Vicar General, which moved the Parish Priest, although he was deeply convinced that Humbert would do nothing to have the ecclesiastical

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marriage, to assist at his marriage with Elvira, as he himself testifies in his first testimony. Furthermore, we have already seen how much weight the written letters given by Humbert have. Now it must be seen whether the testimony of this...

[*Latin ed. p. 743*]

In Fermo, 743 persons of worthy faith, at least, are concerned about this matter. This person, as the General Vicar testifies with hesitation, and as the Most Reverend Archbishop of Fermo affirms with certainty in his letters to this Sacred Congregation, dated February 31, 1900, is Joseph Titus De Angelis, who gave testimony in the process. Let us see what he swore he asserted. Among other things, in his testimony, the following is found: "I am convinced that the sole purpose that Humbert had in giving his consent was to satisfy a desire of Elvira, and I am also convinced that he made no calculation regarding the religious ceremony. Indeed, in this regard, I seem to remember that during the celebration, Humbert was smiling. I also remember that I received the task from ecclesiastical authority to question Humbert, whether he at least believed in the existence of God; I carried out this task, and in response, I received from him smiles and skeptical expressions. But insisting on obtaining from him a categorical statement on this point, I did not receive a response, which I do not remember." Therefore, Joseph Titus De Angelis did not extract anything else from Humbert, except whether he believed in the existence of God, and perhaps he received a negative response. But he did not ask whether Humbert believed that he had undertaken an obligation through the religious marriage, nor did Humbert ever give an affirmative answer to this. This, however, was what needed to be asked. Therefore, Humbert remained in his persuasion, which he had affirmed so many times before, and he never denied it. Therefore, the Curia of Fermo acted too hastily, and besides the fact that it did not behave properly by allowing the ecclesiastical marriage, after the civil ceremony had taken place, to an atheist, it also erred greatly by giving too much credence to the words of Joseph Titus De Angelis, who perhaps described the matter in such a way that, without openly lying, he led the authority to grant the permission to celebrate this marriage, which was so desired by the family of Elvira, Elvira's uncle. Certainly, the Curia, with excessive haste and insufficient...

[*Latin ed. p. 744*]

744. From the proceedings of the Sacred Council, an excusable doubt arises. For this matter could not have been properly concluded in a few hours, as was the case, without, in any way, questioning Humbert himself. Therefore, given these circumstances, it appears that the permission granted by the Curia does not invalidate the arguments that we have presented to prove that Humbert did not consent to this marriage. And if,

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at times, the General Vicar, in his testimony, insists on asserting that he and the Most Reverend Archbishop would not have granted the parish priest the faculty to perform the marriage with the risk of nullity, unless he had sufficient proof that Humbert truly intended to marry, he is indeed saying the truth, but he does not prove that he was not deceived, and therefore did not err, when, in fact, from what has been said, this appears to be clearly demonstrated. Hence, from what we have stated above, it seems certain that Humbert did not wish to assume any obligation from the ecclesiastical marriage that he entered into. And this is confirmed by what he himself said to Elvira, immediately after the wedding, that he was not bound to her by any bond, that she was still a stranger to him, and that if she wished, he would pursue with her those illicit loves that he had hitherto dishonestly fostered, but that he would not consider her as his wife. But he who speaks in this way does not wish to make the woman his wife; therefore, he does not wish to enter into marriage. My entire argument is reduced to this syllogism: He who enters into marriage, unwilling to accept the obligations that are naturally connected to marriage, acts wrongly. But Humbert entered into marriage in such a way that he did not wish to accept those obligations. Therefore, he acted wrongly, that is, he entered into the marriage invalidly. To this argument, there is, as far as I can see, only one objection that can be raised. Namely, Humbert acted in accordance with what he had expressed in words. For he who acts, intends to do what he performs. But Humbert, in fact, intended to enter into an ecclesiastical marriage, and he did so. Therefore, he entered into the marriage contract, and consequently, he accepted the marital obligations.

[*Latin ed. p. 745*]

FIRMANA 745. From what has been said, if I am not mistaken, this difficulty has been sufficiently resolved. Humbert indeed wished to establish the external form of ecclesiastical marriage, and he did so; but he did not wish to enter into an ecclesiastical marriage, and he did not do so. This is also evident from the fact that he always refused to enter into marriage according to civil law, believing that by doing so he would incur marital obligations. Therefore, he always rejected those obligations, and therefore he never entered into such a marriage. He had the ecclesiastical marriage as a mere empty ceremony; therefore, just as someone who would receive the external form of baptism, unwilling to be united to the Church, nor to assume the obligations of the Christian religion, nor to receive that which Christ instituted, but merely to perform a mere external ceremony, would not be baptized, so Humbert did not enter into marriage. It therefore seems certain that no marriage was entered into between Humbert and Elvira. Therefore, to the question: Does it appear that there was a nullity in the marriage in this case? The answer seems to be: Affirmative, or at the very least: Probable, and the evidence supports this.

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OBSERVATIONS OF THE DEFENDER OF THE MARRIAGE. The defender argues that the marriage, which Elvira, then 30 years old, entered into on April 1, 1892, with Humbert, of approximately the same age, before her own parish priest, was null and void and remained an unconsummated act, and that neither of these can be supported by valid arguments. First of all, the alleged lack of consummation of the marriage is of no value, and the most learned Consultors unanimously reject it. For we are speaking of spouses who, long before the marriage, having evaded all vigilance of their own, indulged in shameful loves and conceived a child; and who, on several occasions, had opportune opportunities to see each other, either in Fermo in April 1892, or in Rome, where the woman followed the man in the following month of October 1892, and remained there for almost two years, urging him both for the support of the child and for the celebration of a civil marriage. And furthermore, the witnesses do not provide any certain evidence...

[*Latin ed. p. 746*]

746 FROM the records of the Council, it is clear not only regarding the extreme lack of supporting evidence, but also regarding the very conjugal cohabitation, which perhaps took place in Rome for several months. However, concerning the alleged nullity of the marriage, while one Canonist, acting as advisor to the actress, indulges her wishes most kindly, another, a Theologian, after carefully considering all the circumstances, states: "From the records, as they are, it does not appear that Humbert did not consent to the marriage with Elvira." I readily embrace this conclusion, for I believe it to be entirely true. However, lest I seem to fail in my entrusted duty, or act unjustly, I will briefly touch upon a few points in confirmation of this opinion: Firstly, I frankly admit to the suspicion that arises in me, namely, that the sentiments against Religion, which Humbert had so widely professed, were, through his actions, either feigned or at least exaggerated, in order to escape the insistent demands regarding the celebration of the marriage. For while he is portrayed as one who spurns Religion and ecclesiastical authority, he nevertheless, without hesitation, submitted himself to the examination established by the Vicariate of the City, and he did not offer any pretext whatsoever for refusing to swear to the holy Gospels. It is also asserted that Humbert considered religious marriage to be worthless, and its substantial obligations likewise; but he demonstrates otherwise by the very fact that for a year and more, the woman's family persisted in their complaints, urging him not to enter into it. And this is confirmed by the firm conviction with which Humbert believes himself to be not single, but married. When questioned by the judge: "Do you know the lady Elvira, and do you know that she has made the same request to obtain a declaration that your marriage with Humbert is null, or that it be dissolved?" he replied: "I know the lady Elvira, and I know that she has filed a request

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for the annulment of our marriage." Furthermore, regarding the specific sentiments of Humbert concerning obligations, Elvira herself declares:

[*Latin ed. p. 747*]

FIRMANA 747 "In order to persuade Humbert to marry me before the Curate, I did not ask him to make any declaration regarding the assumption of marital obligations. Especially since he, being in a deplorable financial condition, had no means to assume such obligations." And the judge inquired: "Was the intention of living together present when the marriage was celebrated?" And Elvira added: "When I married Humbert, I had the intention of living with him as a true and legitimate wife. But on the very evening of the marriage, he openly told me: 'I have no means to support you; if you wish to live with me, I will not acknowledge you as my wife before society...'" Then Humbert himself, when questioned by the judge: "Did he intend to assume any bond, obligation, etc., with that act?" replied: "I did not feel that I was entering into any bond before men... I only thought that, since I could not complete it even with this civil act, given my financial circumstances, I could never establish a family." The controversy was concluded by Humbert's explicit declaration, written to the bride's father on the same day as the marriage celebration: "I beg you, Mr. Enrico. — Since I desire that the religious marriage be completed, I declare that I am willing to marry your daughter Elvira religiously, and I promise to marry her also civilly, when I find myself in a condition that will allow me to establish a family." Furthermore, since no one doubted, nor does doubt, that Humbert wrote "I promise to marry her also civilly when etc." with a serious and proper meaning, I do not understand why the immediately preceding statement, in which he asserted "that he was willing to marry his daughter Elvira religiously," should not be understood in the same way. The parish priest of Fontevecchia himself, even if he believes that Humbert was in a state of mind in which he would rather not have entered into the marriage, nevertheless expressly refrains from stating this, because it precedes the aforementioned declaration. When the judge inquired: "Do you believe that the will of

[*Latin ed. p. 748*]

748 Regarding the Council of Trent, Humbert might formulate his position in this manner: "I believe that the religious rite is a null and valueless act; therefore, I intend to perform it, not intending to assume any of the obligations, even purely moral ones, which the Church says arise from this act; but only to perform that material act which the Church designates as a religious marriage. But if, in truth, some bond or purely moral religious obligation were to arise from this act, which is precisely the religious marriage, would I not rather refrain from performing this act than to bind myself with these obligations, even purely moral ones?" To this, he responded:

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"Affirmatively, regarding the first part. And regarding the second part, also affirmatively, with great probability, because I believe, although not with absolute certainty, that I proposed to Humbert the hypothesis mentioned in the question, and received a negative response. However, I always say this regarding the time that preceded the written declaration."

Nevertheless, the aforementioned declaration is to be understood in this way, as a most learned Canonist Consultant believes, who writes: "I confess that I have read and examined these *litterae* not once, but repeatedly, and I have found nothing in them other than a promise, subsequently unfulfilled, to treat Elvira even civilly. Indeed, these *litterae* appear to have been composed solely to deceive ecclesiastical authority, since they were written on the very day that the marriage was celebrated... they seem, in fact, to confirm that Humbert persisted in his previous intention, and carefully chose his words in writing the *litterae*, so that they would not contradict his mind, and yet would serve to obtain the assistance of the Parish Priest in the marriage." I, too, confess that I have read and examined these *litterae* not once, but repeatedly: but, if I am not mistaken, they imply nothing other than that Humbert, although he did not actually intend to disregard ecclesiastical authority, rather intended to assure Elvira's father of the correctness of his actions, while he wished to have his marriage performed before God, to whom he could, at his discretion, deceive, but also, at the appropriate time, before...

[*Latin ed. p. 749*]

In Fermo, there are 749 individuals who are involved in external matters. Furthermore, the fact that letters were written on that very day, concerning the marriage that was celebrated, seems to me equally fitting to confirm that Humbert persevered in his previous intention, and to establish that he truly withdrew from his previous intention. Therefore, no matter which aspect of the matter is considered, there is nothing to suggest that Humbert used the letters deceitfully, in order to induce the parish priest to attend the marriage. Indeed, there was no reason for him to do so, since, on the contrary, the parish priest should have been entirely dissuaded from such attendance in order to achieve the desired outcome. Therefore, after considering and reading what the Consultors and the Defender of the Bond have presented, the following points were proposed for examination: I. Whether the marriage is null due to the lack of true consent on the part of the man in this case. II. Whether it is necessary to consult with the Most Holy [Father] regarding a dispensation from a valid but unconsummated marriage in this case.

RESOLUTION. The Sacred Congregation, after discussion on February 2nd and 3rd, 1901, decided to respond: To I and II, negatively.

SPALATEN. JURIS. February 28th, 1901.

Regarding the CHORAL DISTRIBUTIONS.

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Session 24, Chapter 3. Concerning the Cathedral Church of Spalato.

This church is governed by a special constitution, so that the choral distributions benefit not only the canons and vicars, but also other priests who, having been co-opted into the Congregation, called the Clergy, attached to the Cathedral Church, have the right to participate in the choral functions and to receive the corresponding daily distributions. Today, the canons, after the Constitution of Leo XII, "Locum B. Petri," from the year 1828, receive six [units].

COMPENDIUM FACTI.

[*Latin ed. p. 750*]

750 From the Sacred Council, four Vicars Choral are appointed, but the number of priests who are assigned to this congregation and participate in the choir is uncertain, and it makes no difference whether these priests hold another office or benefice. — Therefore, on May 20, 1898, Raymond Maroevic, the parish priest in the suburb of Spalato, and also another parish priest in the suburb commonly called Borgo Grande (for these two parishes, besides the Cathedral Church, are established in the city of Spalato), petitioned the Chapter to allow themselves, as parish priests in the city of Spalato, and therefore as part of the clergy, to participate in the choral functions of the Cathedral Church of Spalato, and thus to receive the daily distributions. A Synopsis of the Discussion. However, the Chapter opposed this, refusing to recognize this right for the aforementioned priests, since they were not natives of Spalato. Indeed, the canons state that, according to the Constitution *Regiminis universalis* of St. Pius V from the year 1569, only priests who are citizens and natives of Spalato are to be admitted to the ecclesiastical benefices established in Spalato, and therefore to the congregation of the clergy attached to the Cathedral Church. Nevertheless, the Chapter members admit that, long ago and even today, non-native priests have obtained and continue to obtain canonical benefices and the benefices of Vicars, and they note: "But beyond the canons residing there and the Vicars Choral, the Chapter of Spalato has never admitted to the choral distributions anyone except the native priests and clerics of Spalato." Therefore, the Chapter admits that, at times, parish priests from the suburbs have participated in the choral functions and thus have received distributions, but not as parish priests, but as citizens and natives of Spalato, assigned to the Congregation of the Clergy of the Cathedral Church. But at the same time, they lament the bad consequences that this practice has brought about, namely that parish priests have too easily abandoned their churches in order to participate in the choir, to the great detriment of souls.

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Concerning the common law, the Chapter members mention the DECREE.

[*Latin ed. p. 751*]

SPALATO. In the year 751, Boniface VIII confirmed a decree concerning clergy, which had been established by the Council of Trent, Session 24, chapter 12, wherein the Pontiff commands: "We decree that distributions, whether they consist of food or other provisions, be granted to the canons and other beneficed clergy and to the clergy of cathedrals and other collegiate churches who perform their duties in those churches, according to a reasonable arrangement already made, or to be made, for each church." Leo XII, in the cited Constitution of the year 1828, expressly determined the number of canons and beneficed clergy; but, as expressly stated in the Episcopal Decree of December 12, 1891, he did not prohibit the presence of other clergy, as Boniface VIII mentions in the third place in the cited decree. And in the Church of Spalato, according to the Capitular statutes, these are included in the Congregation of the Clergy, and they have the right to participate in the choir and to receive daily distributions in proportion to their service. Therefore, the honorary canons also receive daily distributions, as the Capitular statutes state, and the canons themselves report. "In the Statutes of the Chapter of the Cathedral Church of Spalato: Section I: Concerning the Personal Status of the Cathedral Church, after Chapter I: Concerning the Number, Election, and Endowment of the Chapters, follows Chapter II, the title of which is: Concerning Those Who Serve the Cathedral Church, and which states verbatim: 'Besides the aforementioned Chapter, the following must also be included: 1) Six honorary canons, whom it is permitted to elect in this Cathedral, by reason of the more splendid liturgical arrangements, with the consent of the Emperor, as has been provided. 2) Also, four choir vicars must be present, whose duty it is to participate daily in the choir, to serve in chanting in the Masses and canonical hours, and also to assist the parish priest of the city.'"

[*Latin ed. p. 752*]

752 FROM the decrees of the Holy Council concerning the administration of souls, it is to be understood that those who assist in this ministry ought to be aided, and therefore they are to be subject to the same regulations, just as the Canons are.

3) The Presbyters of the Congregation and the Clergy devoted to the service of the Cathedral are to be included. The Master of Ceremonies and the Sacristan, who enjoy benefits in this Cathedral, are to be raised to the order of the priesthood.

In the same aforementioned Capitular Statutes, Section VII, which treats of: -The goods of the Chapter and their administration-, in Chapter III, whose title is: -Of the daily distributions-, the following is read:

1) The daily distributions, originating from simple benefices, already

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authorized by the authority of Pope Pius V and Pope Gregory XIII, and subsequently increased, according to the norms of the Council of Trent, both by simple benefices and by certain pious legacies, for the greater glory of God and to more certainly and zealously promote the worship of God in this Cathedral, for the daily choir and divine office, for the benefit of the Chapter and the Clergy, have been established under the title of the Mass.

2) The fruits derived from this Mass, for the daily distributions, it is never permitted to anyone to transfer to another purpose without the consent of the Chapter and the Clergy, and without the consultation of the Holy Apostolic See.

3) All members of the Chapter and the Clergy belonging to this Cathedral, and all priests who belong to the Congregation of Presbyters, have the right to enjoy the fruits of these daily distributions, according to their foundation and the practice of the Church; but to actually benefit from them, their presence is required in the choir, and they must perform the divine offices and other functions, as has already been said.

4) By decree of the Most Reverend Lord Priuli, the Apostolic Visitor of the Diocese of Vicenza, in the year 1603, four parts out of seven are assigned to the Chapter as a whole, and three parts to the Congregation of Presbyters, that is, to the lower clergy; however, each member of the Chapter serving receives one whole portion, a Presbyter receives half, and a Cleric finally receives one portion.

[*Latin ed. p. 753*]

SPALATE. In the year 755, it can possess and maintain a complete fourth-class endowment. However, the canonical and honorary stipends of the Chapter, insofar as they pertain to the Congregation of the Presbytery, must be allocated in a portion that belongs to the simple priests. Then, they conclude: Parochial vicars of the suburb can participate in the choral distributions of the Catholic Church insofar as they are members of the Congregation of the Clergy; but this clergy is not currently included in the Congregation, nor do they have the right to be included, the capitulars maintain, because they are not citizens and residents of Spalate. DEFENSE OF THE PAROCHIAL VICARS. On the contrary, the parochial vicar does not object, provided that he is not counted among the clergy of the Congregation of the Clergy of the Catholic Church, but he claims the right to be included, so that he may participate in both functions and choral distributions. He recalls a certain decree of Bishop De Dominis, subsequent to the Piana Constitution, issued in the year 1609, in which the clergy of the Catholic Church, or those who are to be part of this Congregation, are defined as: "All simple priests who are present and who will be present, only those who are members of this Church." From this, he infers that the origin from the city of Spalate is not required, but only membership in the Cathedral Church, which has hitherto been denied to no parochial

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vicars of the suburb. He recalls that in the year 1894, this Congregation of the Clergy arrogated to itself the exclusive right to elect a delegate for the clergy to administer the economic affairs of the Seminary, as decreed by the Council of Trent, Session 23, Chapter 18, concerning Requisitions, but that a decree of the Bishop asserted this right for all priests, whether in the city or in the suburb, who exercise priestly functions. This right, the vicar states, belongs even more to the parochial vicars of the suburb, because the mass of distributions is composed of simple benefices, which formerly belonged to these parishes, as learned scholars demonstrate, such as Parlati, Illyr. Sacrum. III, 484. The vicar explains how the custom arose of considering the origin of the clergy, and of excluding clergy who are not residents, from the benefits, from the reasons given.

[*Latin ed. p. 754*]

754 FROM the Council of Spalato, during the incursions of the Turks, who had already subjected the entire province of Dalmatia to their dominion; and the city of Spalato itself was still immune from their domination. Therefore, all those who could flee from the Turks found refuge here. Consequently, with the favor of Saint Pius V and at the urging of the local clergy, in the year 1569, the aforementioned Constitution was issued, which decreed: "From now on, and for all future times, whenever a canonry, a benefice, or any other ecclesiastical office, with or without a cure, becomes vacant... it must be granted or assigned only to those who are native to the city and diocese of Spalato, and who have continuously served or will serve the Church..." The speaker states that this custom was religiously observed until the Constitution of Leo XII, which, after changing the boundaries of the diocese of Spalato, it was deemed inappropriate to continue observing the Piam law in the granting of offices and benefices, and therefore it gradually fell into disuse. And the speaker concludes: "The undersigned is the first parish priest of this village who is not native to Spalato, as was the case with the Cathedral Canon, Dom Giorgio Gojsalic, who was the first parish priest not native to Spalato of Borgo Grande. And both were denied the right to receive the choral distributions, because they are not native to Spalato." However, this did not prevent Gojsalic from later obtaining a canonical benefice. When questioned about his opinion, the Bishop recounted much concerning the ancient condition and nature of the Church of Spalato, and about the manner of acquiring the right to receive distributions. As for the appropriateness of doing so, he considered that it was not advisable for the parish priests of the two parishes of Spalato to be present daily at the functions of the Cathedral, so that they would not afterward have the burdens of their parishes with a distinction among the faithful. Furthermore, he noted that the Chapter unequivocally asserts that the condition established by Saint Pius V for co-opting individuals into the

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clergy of the Cathedral Church was that they be citizens.

[*Latin ed. p. 755*]

SPALATO. 755 – And the inhabitants of Spalato, but the Bishop testifies, and the words of the Constitution of Placentia, as reported by the parish priest, attest that the Pope spoke of the city and diocese of Spalato as having its *origines* (origins), and that the words "citizens and inhabitants of Spalato" were usurped by Farlati in his *Historia*, in order that the Pope's intention might be commented upon. However, the Pope seems to have included the *origines* (origins) of the entire diocese in his Constitution, while Farlati, with his words, includes only the inhabitants of the city of Spalato. Because the complete text of the Constitution is lacking in the records, these conclusions seem to be legitimately inferred from the presented fragments. Furthermore, there is no doubt that the parish priest was a member of the diocese of Spalato. Moreover, today it makes little difference to delve more deeply into this historical-legal question, provided that the chapter itself contradicts the law, including among the chapter members those priests who are not citizens by origin of Spalato. Indeed, the parish priest Gojsalic denied the assignment to the Congregation of the Clergy, which he sought along with Maroevic, but he conceded that they should be granted a canonical position, as I have stated. This practice, I say openly, seems not to be consistent with itself, since if the lack of origin no longer prevents canonical appointments, by what right does it prevent the assignment of clerics to the cathedral church, who, for the sake of personal service, receive some compensation? The reason for the discrimination in the care of souls, as perceived by the chapter, is that "the parish of Borgo Luca, with 4000 souls, and the parish of Borgo Grande, with well over 8000 souls, are abandoned by their own parish priest and the only assistant." Today, as is narrated in the records, the parish assistants are assigned to the clergy of the cathedral church; and they claim this right to the extent that they are citizens and inhabitants of Spalato. The Bishop, in his letters, requests permission to increase the number of clergy of the cathedral church, and he is confident that this can easily be achieved, if the faculty is granted to co-opt into said clergy, priests or clerics who are not citizens or by origin of Spalato.

[*Latin ed. p. 756*]

756 FROM THE DECREE OF THE COUNCIL OF SPALATO. I have not considered it proper to propose this matter under discussion, since it exceeds the limits of the present [context]; the questions and inquiries have not been, as is customary in the Sacred Congregation, those interested. The Most Reverend Fathers will deliberate whether, from the arguments presented and proven, it is sufficiently clear that the law no longer requires that Presbyters be added to the clergy of the Cathedral Church of Spalato,

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as citizens and natives of Spalato, since Pope Pius V did not request anything other than that this clergy be of the origin of the city and diocese of Spalato; therefore, it is fitting for the Bishop to exercise this right, as he has promised. With these premises, the following doubt has been proposed for consideration: Whether the parish priest of a suburb of the city of Spalato should be assigned to the clergy of the Cathedral Church, even if he is not a native citizen of Spalato. RESOLUTION. The Sacred Congregation, after deliberation on February 23, 1901, decided to respond: Parish priests have the right to be assigned to the Cathedral clergy, provided that they are natives of the diocese. FROM THE SACRED CONGREGATION OF THE HOLY ROMAN AND UNIVERSAL INQUISITION: DOUBTS regarding the interpretation of the decree of the Holy Office of June 5, 1889, concerning causes of marriage where the nullity is evident. Most Blessed Father, The Official of the Curia N., with the humility due to Your Holiness, and with the consent of his Archbishop, reverently presents the following: By the General Decree of the Holy Roman and Universal Inquisition of June 9, 1889, it was established that certain matrimonial causes, when the nullity is evident, can be decided in a single sentence, with reduced formalities and without appeal by right.

[*Latin ed. p. 757*]

FROM THE SACRED ROMAN CONGREGATION OF THE INQUISITION, 757. Among these cases, the matter of clandestine marriages also arises, concerning the places where the decree "Tametsi" of Trent is observed. This Sacred Tribunal understands this in the sense that a single judgment is sufficient whenever an obvious defect is present in the observance of the Tridentine form, such as if only one witness were present, or if the marriage had been contracted before only a non-Catholic minister... etc. However, when the Tridentine form has been fully observed, and the question arises only concerning the quality of the proper pastor, even if an obvious defect in the domicile or quasi-domicile, or in the delegation, is apparent, all the formalities are always observed, and an appeal is made ex officio. But other cases also occur, not infrequently, namely those in which, in order to avoid obtaining the consent of the parents, as required by civil law, they go to England or to other places where the decree "Tametsi" has not been promulgated, and after a few days they return, and there they contract marriage, either before a civil official "registrar," or before a non-Catholic minister, or finally before a Catholic minister, with a "registrar" present, without having received any delegation from their proper Ordinary or pastor. In these cases, the nullity is almost always evident, especially when the marriage is contracted before a non-Catholic minister, because, even if a delegation had been given, it would never be granted to contract marriage before such a minister. Given these circumstances, the following is humbly inquired:

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I. Regarding marriages which are contracted in Gallus, or in places where the decree "Tametsi" has been promulgated, before a pastor and two witnesses, is it permissible to omit the appeal ex officio, when from the records it can be clearly concluded that the pastor was not the proper one, and that no delegation had been given by the Ordinary or by the proper pastor of either of the contracting parties?

II. Regarding marriages contracted by Catholics, who maintain their domicile in a place where the decree "Tametsi" is observed, in a place where the same decree does not hold, but where they have not acquired a domicile or quasi-domicile, must the formalities of the marriage process be strictly observed, when it is clearly established that they contracted the marriage in fraud of the law, and especially in fraud of the civil law?

III. At least, even if the required formalities have been observed, and the evidence of nullity is evident, can the Defender of the marriage abstain from making an appeal ex officio?

[*Latin ed. p. 758*]

758 FROM THE SACRED CONGREGATION OF THE ROMAN AND UNIVERSAL INQUISITION. Finally, is a summary process sufficient, and can the appeal be omitted, whenever a marriage has been contracted before a non-Catholic minister or before a single civil magistrate? And God, etc. Thursday, March 27, 1901. In the General Congregation of the Sacred Roman and Universal Inquisition, held by the Most Eminent and Reverend Cardinals, General Inquisitors, after the aforementioned doubts had been proposed, and with the vote of the Most Reverend Consultors having been heard, it was commanded that the following be answered: Provided that, according to the Decree of the Sacred Roman and Universal Inquisition of June 5, 1889, it is to be understood only in cases in which it is certain and evident that the impediments about which we are speaking exist; and if this certainty is lacking, the defender of the marriage bond must proceed to the second instance (1). DECREES condemning devotion to the Most Holy Soul of Our Lord Jesus Christ. Thursday, May 1, 1901. Certain rosaries and some formulas of prayer, for the approval of devotion to the Most Holy Soul of Our Lord Jesus Christ, were presented to the Supreme Congregation of the Holy Office. The Most Eminent Cardinals, General Inquisitors in matters of faith and morals, decreed as follows: (1) The decree to which reference is made: "In the General Congregation held on Thursday, May 5, 1889, the Most Eminent and Reverend Cardinals, General Inquisitors in matters of faith and morals, decreed: 'When it is a question of the impediment of disparity of cult, and it is clearly established that one party has been baptized, and the other has not been baptized; when it is a question of the impediment of a previous bond, and it is certainly established that the first spouse is legitimately living; when, finally, it is a question of consanguinity or affinity arising from a licit marriage, or even of spiritual relationship or

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of the impediment of clandestine marriage in places where the Tridentine Decree *Tametsi* has been published, or is observed as such, provided that, from a certain and authentic document, or, in the absence of such a document, from certain evident arguments, it is clearly established that such impediments exist, concerning which the Church has not dispensed; in these cases, the solemnities prescribed in the Apostolic Constitution *Dei Miseratione* being omitted, the marriage may be declared null by the Ordinary, with the intervention of the Defender of the Marriage Bond, so that a second sentence is necessary.' " His Holiness Pope Leo XIII approved and confirmed the decree of the Most Holy Fathers. 1. Canon Mancini, Notary of the Sacred Roman and Universal Inquisition.

[*Latin ed. p. 759*]

FROM THE SACRED CONGREGATION OF THE ROMAN AND UNIVERSAL INQUISITION, 759. The General Inquisitors decreed: "Let the condemnatory decrees concerning the devotion, of which we speak, be made public." These decrees are as follows:

1) Since certain matters concerning the devotion to the Most Holy Soul of Our Lord Jesus Christ had been sent by the Congregation of Sacred Rites to the Holy Office, on the IVth day of March, 1875, a decree was issued: "It is to be seen to that, in the public worship of the Church, under the pretext of devotion to the Most Holy Soul of Christ, no disapproved novelties are introduced in images, or in the formulas of prayers, or in other sacred things, nor is anything new introduced without the consultation of the Holy See, especially if it derives from revelations or visions, unless they have been examined and approved. Furthermore, in the writings sent to the Congregation of Sacred Rites, certain things were found to be entirely disapproved of, and it is not to be permitted that they be published among the people without their correction."

2) In the year 1893, after prayers had been presented for the foundation of an Institute for the adoration of the Most Holy Soul of Our Lord Jesus Christ, on the IVth day of May of the same year, the same Most Reverend Fathers issued a decree: "The Sacred Congregation responds to the prayers: Negatively. This is to be written to the Bishop, so that he may withdraw the indulgences attached to the prayers and to each of their words, and that he may not give credence to the revelations, of which mention is made; and the decree issued in the year 1875 is to be communicated to the Bishop."

3) Finally, in the same year and on the same IVth day, after a certain formula for praying to the Soul of Jesus Christ had been presented for examination, the Most Reverend Fathers ordered that it be amended, and that the decree mentioned above be communicated to the Bishop who had approved it. All of these things were approved and confirmed by His Most Holy Father, Pope Leo XIII, in the usual audience.

I. CAN. MANCINI, S.R. and U. Inquisitionis. Notary.

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DOUBTS concerning the transmission of sacred oils by commercial companies.

Most Reverend Father, Lewis M. Fink, O.S.B., Bishop of Lavenworth, in the state of Kansas, in the United States of America, most humbly prostrates himself before Your Holiness and requests the following:

1. A short time before Easter of the past year, a question was discussed in the American periodical for the Reverend Clergy, as to whether sacred oils could be sent to missionary priests, without any impediment of conscience, to...

[*Latin ed. p. 760*]

760. Whether Holy Oils can be transmitted to the *Commissariatus* of the Holy Office by Express? The "Express" is a mercantile company that undertakes the transportation of various goods, such as: foodstuffs and beverages, money, birds, dogs, cats, horses, pigs, and other animals, as well as diverse goods. Those individuals who handle these goods are generally heretics or non-believers, and among them, a true Catholic is rarely found. 2°. The transmission of Holy Oils by Express is highly advantageous to many priests, because the cost is less than their journey to the Cathedral Church, the priests suffer less loss of time, and they are better able to prepare themselves for the sacred functions of Holy Week and Easter. 3°. For many bishops and priests, such transmission of Holy Oils appears to be a scandalous mixing of sacred things with profane matters, and contrary to religious piety; for others, however, it seems perfectly legitimate and to present no indecency whatsoever. It should be added that bishops who are opposed to this method of transmission are often considered to be men of a sour disposition, overly strict, and proponents of the ways of the Middle Ages. Given these circumstances, the following question is posed to the Holy Apostolic See: I. Is it permissible to transmit consecrated Holy Oils from the bishop to priests by Express, as explained above? II. Is it permissible to send this Holy Oil to priests by laymen, in order to greatly benefit the priests? Thursday, May 1, 1901. In a General Congregation held by the Most Reverend and Most Eminent Cardinals, General Inquisitors, regarding the aforementioned questions, and after the vote of the Most Reverend Consultors, it was decided that the following should be answered: To I: It is not permissible. To II: In the absence of priests, yes, provided that the fidelity of the laymen who are appointed for this purpose is established. On the following Friday, May 3 of the same month and year, in the usual report made by the Reverend Father, General Commissary of the Holy Office, to His Holiness, Pope Leo, of Divine Providence, Pope Pius XIII, approved the response of the Most Reverend Fathers. I. Canon Mancini, S.R. and U. of

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the Inquisition. Notary.

[*Latin ed. p. 761*]

761 SUMMARY OF THE ACTS CONTAINED IN THIS VOLUME XXXIII: LETTERS AND DECREES OF THE HOLY FATHER.

Letters of His Holiness Pope Leo XIII to the Eminent Vicar, urging Religious Communities to offer prayers to God for the enlightened affairs of China, and that true peace and concord may return, page 3.

Letters in the form of a Brief of His Holiness Pope Leo XIII to the Archbishop of Milan, concerning the fairness of elections, for the choosing of representatives of the people... 3.

Letters of His Holiness Pope Leo XIII to the Patriarch and Bishops of the Greek-Melchite Rite. 65.

Letters in the form of a Brief of His Holiness Pope Leo XIII, which were sent to the XVII General Chapter of Catholics, held in Rome. 129.

Letters of His Holiness Pope Leo XIII to the Bishop of Assisi, on the occasion of the fiftieth anniversary from the discovery of the body of Saint Clare. 193.

Letters of His Holiness Pope Leo XIII to the Eminent Cardinal P. Respighi, concerning the work for the protection of the Faith. 194.

Letters in the form of a Brief of His Holiness Pope Leo XIII; their object is the translation of the body of Saint Augustine to the Basilica of Saint Peter in the golden city of Pavia. 198.

Letters of His Holiness Pope Leo XIII to the Eminent President, on the occasion when the end was imposed on the assembly of the Tertiary Franciscans. 201.

Encyclical Letter of His Holiness Pope Leo XIII, *De Jesu Christo Redemptore* (Concerning Jesus Christ the Redeemer). Letters... 273.

Apostolic Letter of His Holiness Pope Leo XIII concerning the founding of the College of Lusitanian Clerics in the City. 286.

Apostolic Constitution of His Holiness Pope Leo XIII concerning the vows of simplicity professed by Religious Institutes. 341.

Letters of His Holiness Pope Leo XIII to the Abbot of the Monastery of Olinda in Brazil, praising his diligence. 348.

Letters of His Holiness Pope Leo XIII by which indulgences are extended to the entire world. 349.

Letters of His Holiness Pope Leo XIII to the Archbishop of Paris, concerning Religious Congregations in France. 355.

Encyclical Letter of His Holiness Pope Leo XIII concerning Christian democracy. 385.

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Letters of His Holiness Pope Leo XIII.

[*Latin ed. p. 762*]

SUMMARY OF ACTS 762 addressed to the Archbishop of "Weslmonasle-rien" concerning Catholicism, liberalism, and rationalism. 449 Letters in the form of a Brief from the Most Holy Pope Leo XIII, on the occasion of the centenary of the founding of the noble order, concerning the most holy Prince. 577 Letters from the Most Holy Pope Leo XIII to the author of the book, in which is explained the admirable indwelling of the Holy Spirit in the souls of the just. 641 Letters from the Most Holy Pope Leo XIII concerning the Confraternity of the Perpetual Rosary. 641 Letters from the Most Holy Pope Leo XIII to the Abbot of Solesmes concerning Gregorian chant. 642 Letters from the Most Holy Pope Leo XIII to the Rector and Professors, etc., of the University of Studies of Glasgow. 643 A document from the Most Holy Pope Leo XIII concerning vacant offices in the Apostolic Chancery and Datary, addressed to the Most Eminent Secretary of State. 714 Letters from the Most Eminent Secretary of State to the Most Eminent Cardinals, the Parish Vicar, the Vice-Chancellor of the Holy Roman Church, and Caietan Aloisi-Masella, Pro-Datary of His Holiness. 715 Letters from the Most Holy Pope Leo XIII to the Superiors General of the Orders and Religious Institutes. 716 FROM THE SACRED CONGREGATION: Concerning the distribution of choral works; it is debated whether certain distributions are due to the Canon, which the Chapter has denied. 4 Concerning marriages; a dispensation is granted regarding a marriage that has been consummated after long discussions. 29 A decree is established, whereby any cleric who in any way supports intestine wars and political conflicts shall immediately incur [punishment]. 53 Concerning the nullity of a marriage in Versailles (or Paris); it is decided, after what has been presented, that it is not sufficiently proven that the marriage is null. 67 Concerning the nullity of a marriage in Nicaea; after a long and repeated discussion, the response was that it is not sufficiently proven that the marriage is null due to the alleged fear experienced by the mother concerning her daughter. 130 Concerning the right to choose procurators in Melevita; it is debated the right to choose and appoint procurators for the administration of the goods of the Collegiate Church. 160 Concerning a sentence with definitive force in Paris. 289 Concerning the last will and testament in Rieti; it is debated the nature of a legacy, namely whether it is perpetual or temporary. 363 Concerning rights in Marsorum; the question concerns certain rights between the Canons and the Archdeacon. 406 Concerning betrothals in Caesenate (or Ravenna); it is inquired whether the betrothals were validly contracted. 451 Concerning oblations in Meten; the question is raised whether the oblations made to

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Saint George...

[*Latin ed. p. 763*]

SUMMA: It must be administered to the faithful by the entire chapter, or by the sole Rector of the Collegiate Church.

4. 6. 4 Vicentina: A dispute arises between a parish priest and his coadjutor regarding the agreed-upon compensation, but it was not properly defined from the beginning.

4. 8. 0 Bergomen: Regarding a chaplaincy; the question is whether a priest who performs the duties of the Bishop's Chancellor and ceremonial officer is properly excused from the obligations of the benefice whenever he is with the Bishop.

4. 9. 3 Argentinen: A dispensation from irregularity; a priest afflicted with apoplexy is dispensed from his duties, having lost the use of the right side of his body.

4. 9. 8 Tridentina: A dispensation from choral service; a dispensation is granted by the Holy Congregation, which the Ordinary has granted, and the chapter has requested.

5. 0. 1 Mechliniensis: Irregularity; a dispensation is granted from an irregularity due to a physical defect, because the person is prevented from being promoted to the sacred orders due to a limp.

5. 0. 7 Colonien: Proclamations of marriage; permission is requested to make marriage proclamations in filial churches by priests who exercise delegated authority there, apart from the parish church.

5. 1. 9 Caietana: Regarding parochial boundaries and ACTS: A dispute arises regarding whether two decrees of the Ordinary, by which new parochial boundaries are determined and a new baptismal font is erected, should be amended.

5. 3. 2 Melphiensis: Regarding the attribution of rights to the clergy; permission is granted to the one presenting the right of attribution to the cathedral church.

5. 4. 1 Galteliinoren: Regarding parochial rights; various questions concerning parochial rights between the parish priest and the cathedral canons are to be resolved.

5. 7. 8 Sancti Claudii: Nullity of marriages: It is declared that there is no evidence of the nullity of a marriage based on the deductions made in the case.

5. 9. 6 Pacensis: Regarding a lectoral prebend: A theologian canon seeks to be excused from giving six sermons per year, which he undertook when competing for the aforementioned prebend.

6. 1. 5 Andrien: Regarding the rights of the confraternity to perform functions: A dispute arises as to which of the two rectors should perform

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certain functions for two confraternities.

6. 4. 5 Aretina: Regarding the distribution of choral duties: A dispute arises as to which payments should be made by the Rector of the chapter, who enjoys the greater prebend.

6. 6. 4 Firmana: Regarding marriages: It is declared that there is no evidence of the nullity of a marriage due to a lack of true consent on the part of the husband.

7. 2. 3 Spalaten: Regarding the right to choral distributions: A dispute arises as to whether a presbyter...

[*Latin ed. p. 764*]

764 SUMMA ACTORUM: Those who are incorporated into the aforementioned Congregation, attached to the Cathedral Church, have the right to participate in choral functions and to receive the customary daily distributions.

749 EX S. C. INDICIS: Additions to the Commentary on the Constitution concerning Offices and Duties, regarding the prohibition of books, Volume XXX, pages 33 and following.

301: Decree concerning the prohibition of certain books.

677 EX S. CONGR. NEGOTIORUM EXTRAORDINARIORUM: Authentic declaration concerning the grant of indulgence on the day of July 6, 1899, regarding fasting and abstinence for Latin America.

511 EX S. C. EP. ET REG.: Concerning the Eparchy and Regular Canons of Cracow, or the Order of Discalced Carmelites; execution of sentence concerning the granting of administration of the parish of St. Stephen in Asti.

54: Question concerning whether the building of Santa Clara, located in the city of Asti, should be assigned to the "Parva Domus" of Augsburg in Turin.

101: Chapters concerning the conventual Mass; discussion concerning whether the canons are obligated to celebrate the conventual Mass on certain days.

114: Method of handling affairs before the Sacred Congregation of Bishops and Regular Canons.

117: Concerning St. Mark and Bisignano; a dispute concerning whether the Capuchins are obligated to repay the value of the money to the builders of the factory, which was completed by the authority of one religious.

177: Concerning St. James of Chile; Pious Legacies; the matter concerns the validity of a testament regarding a Pious Legacy.

202: Circular letters concerning Institutes of Simple Vows, seeking apostolic approval.

415: Concerning the legal ownership; a dispute concerning to which of

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the claimants the possession of the Church should be given, which had been purchased in parts by the usurping government.

624 EX S. CONGR. RITUUM: Novara; doubts concerning an unusual custom of blessing the baptismal font and assigning days of prayer for the dead on Sundays and other feast days.

62: Tarragona; concerning the beatification of the Venerable Saint Philomena of Cologne.

63: Order of Friars Minor of St. Francis; various doubts concerning the office of Patron of the Diocese.

123: Tirasso; doubts of the Master of Ceremonies concerning certain unusual customs.

125: Verona; concerning the beatification of the Venerable Servant of God Magdalene of Canossa.

127: Brixia; concerning the confirmation of the cult rendered to the Servant of God Obilio.

182: Prague; doubts concerning certain customs.

184:

[*Latin ed. p. 765*]

SUMMA: Questions regarding the wearing of the biretta by regular priests and concerning the washing of hands by the celebrating Bishop. . . . . 186. Parentin, and Polen, concerning the feast day of Saint Thomas of Canterbury. 186. Urgellen, various questions. . . . 187. Saint James of Venezuela; it is questioned whether a prayer for the deceased can be added to the prayer "Deus qui nobis," and whether a Mass for the dead can be celebrated during the exposition of the Blessed Sacrament. . . . . 189. Saint Severin, a question concerning the first dignity of the chapter, in the absence or impediment of the Bishop. . . . 189. Lauden, or the Congregation of Clerics of Saint Paul, the Barnabites, various questions. 190. Fanen, questions concerning the exposition of the Blessed Sacrament, concerning the celebration of Mass before the procession of the Most Holy Body of Christ, and concerning the throne to be erected by the Abbot of the Regular Canons. 191. Order of the Lesser Brothers of Saint Francis, questions proposed by the editor of the calendar for the order of the Lesser Brothers pertaining to the custody of the Holy Land. . . . 227. A question concerning the use of the Slavic language in the sacred liturgy. . . . 228. Romana, or Bergomen, concerning the beatification of the venerable Servant of God, Theresa Eustochia Verzeri. . . . 229. Neapolitana, concerning the beatification of the venerable Servant of God, Sister Joanna Antida Thouret, foundress of the Institute of Sisters of Charity; to which is appended Decree 765, with a summary of the matter for the introduction of the cause. 229. Saint-Claude, concerning the beatification of the venerable Servant of God, Anne of Saintonge. 376. Continuation of the process of

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beatification of Joanna Thouret, the beginning of which is on page 229. . . . 379. Verone, concerning the beatification of the Servant of God, Magdalene of Canossa. . . . 422. A question concerning whether the feast is simple or semi-double, perpetually reduced to a simple rite. . . . 423. Taurinen, concerning the beatification of the venerable Servant of God, Joseph Benedict Cottolengo. . . . 423. Continuation of the process of beatification of Joanna Thouret. . . . 427. Senogallien, various questions. . . . 557. A petition from the Abbots concerning their intervention in the semi-public Consistories, preceding the canonization of the Blessed. . . . 558. A question concerning the particular feast of Saint Angel, Guardian of the Kingdom. 559. Note. Follows the process of beatification of Joanna Thouret, the beginning of which is on page 229, and the continuation on pages 379 and following, and 427 and following. 561. Brunen, questions concerning the litanies of the Lauretian and the prayers after Mass, to be recited. 631. Variations and additions for the Roman martyrology. 632. Urbis et Orbis, concerning the feast of Saint John Baptist de La Salle. . . . 637. Ruthenen, concerning the beatification of the venerable Servant of God, Mary William Emilia of Rodat. 638. Romana, questions; a question concerning Mass.

[*Latin ed. p. 766*]

SUMMA ACTORUM 766, under the title "Refugium peccatorum," concerning the transfer of this feast to the Paschal season.

678. Various questions presented to the Sacred Congregation of Rites by a chaplain of a certain maritime society.

679. Questions regarding the dedication of a church, if it coincides with the titular feast of the church, and if the titular feast is the Transfiguration of the Lord or the Most Holy Redeemer.

680. Decree. Questions proposed for resolution by certain calendar compilers.

681. Privileges that are commonly granted by the Most Holy Father, through a rescript of the Sacred Congregation of Rites, to be solemnly celebrated within a three-day or eight-day period within the year following beatification or canonization.

684. Regarding Faventina, confirmation of the cult rendered to the Servant of God Anthony Bonfadini from time immemorial.

686. Regarding Tornaceno, or Vienna, concerning the beatification and canonization of the Venerable Servant of God Joseph Amandi Passerai.

687. Prosecution of the process of beatification of the Venerable Servant of God Joanna Thouret.

690. FROM THE HOLY APOSTOLIC PENITENTIARY. Declarations for the Holy Year.

64. Declaration regarding the indulgences granted to the Basilica of Loreto during the current Holy Year.

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219. Declaration: it is responded that indulgences and privileges of the Holy Land are not suspended during the Holy Year.

219. Questions arising from the great Jubilee extended to the entire world.

375. Regulations concerning matrimonial dispensations.

421. Response: Bishops can divide the time of the Jubilee, request an extension of the same, and otherwise adequately provide for previously established churches to carry out visitations.

554. Response: The omission of the penance imposed for matrimonial dispensations does not invalidate the dispensation itself.

555. Response: The dispensation is not invalidated even if the penance was waived with the intention of not fulfilling it.

556. FROM THE HOLY APOSTOLIC DATARY. Letters to the Eminent Pro-Datary concerning ecclesiastical benefits and pensions.

121. FROM THE HOLY CONGREGATION OF THE SACRED ROMAN AND UNIVERSAL INQUISITION. A question regarding the ordination of a priest, in which the first imposition of hands was performed without physical contact.

128. Question: Whether marriages can be celebrated at foreign legations, as they are celebrated in the kingdoms represented by those same legations.

221. Instruction for Greek Rite Bishops, presented as a response to several questions.

222. Question regarding Ordination, in...

[*Latin ed. p. 767*]

SUMMARY OF ACTIONS in which the first and second imposition of hands was omitted, which was sufficiently remedied after Communion. 224 Doubt: Whether the concessions granted to the Bishop should be understood as having been made by the Ordinary. 225 Doubt: Whether a penitent, who is no longer able to approach the confessional, can be absolved from reserved matters by the Pope himself. 226 Doubt concerning the obligation to strive for the conversion of a heretical spouse and concerning the rite of celebrating a mixed marriage. . 371 Doubt: Whether it is permissible for a heretic to act as a godfather. 372 Concession: It is permitted for the Bishop to communicate with the Congregation of the Holy Office along with the vicar general. . 372 Doubt: Whether the Bishop can delegate a parish priest to administer the oath for the marriage of vagrants, and whether he can obtain permission for this to be included in the Diocesan Synod. . . . 373 Doubt: What is to be done concerning a priestly ordination without the will to perform it on the part of the one being ordained. 373 Doubt: What is to be done concerning a priestly ordination in which, although the imposition of hands was lacking, the words of the unction of hands were neverthe-

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less added afterward. 374 Doubt: Whether, in urgent cases in which sins reserved to the Holy See can be absolved, instead of writing to the Holy Penitentiary, it is permissible to appeal to one who is endowed with that authority. . . . 419 767 Doubt: Whether the recited form in the singular number concerning those being ordained invalidates the validity of the ordination. . . . . 4 2 0 Instruction to the Bishops of Albano Laziale concerning the impediment to marriage *raptus* (marriage by abduction). 547 Doubt. Whether one can avail oneself of the Pauline privilege, with a dispensation from consulting the prior spouse, of a non-baptized Protestant, already bound by the marriage bond to a Protestant woman, who is not baptized. 549 Doubt. Whether, by virtue of the Pauline privilege, a convert to the faith can abandon his own wife and live with a second wife without first consulting the first. . 550 Doubt. Whether the devotion called the "manopoderosa" can be admitted. 551 Doubt. Whether the devotion to the new Immaculate Cross is permissible. . 552 Rescript. It is permitted for the vicar general of Bishop N. to delegate the faculty to confessors to receive reports of solicitations while the Bishop is absent or impeded. 553 Doubts concerning the interpretation of the decree of the Holy Office of June 5, 1889, concerning matrimonial causes of evident nullity. 756 Decrees condemning devotion to the Most Holy Soul of Our Lord Jesus Christ. 758 Doubts concerning the transmission of sacred oils by commercial companies. 759

[*Latin ed. p. 768*]

768 SUMMARY OF ACTS FROM THE OFFICES OF THE VICARIATE OF ROME: Declaration; the members of the Beneficiati of Rome are excused from the obligation of the choir, who are occupied with the sacramental confessions of pilgrims.

220 FROM THE SECRETARY OF BREVES: The Confraternity of daily and universal adoration in Taurini is established, and granted an indulgence.

212 The same Confraternity is raised to a primary level, and is enriched with further indulgences.

213 A Brief by which an indulgence of one hundred days is granted to those who recite the prayer for the conversion of the Jews and the Turks.

401 A Brief by which an indulgence of three hundred days is granted to those who recite the prayer to Mary, Helper of the people.

404 FROM THE SECRETARY OF HOLY INDULGENCES: Indulgences are granted to the pious association, canonically established in Taurini, dedicated to the daily and universal adoration of the Most Holy Sacrament.

214 Decree by which the Most Holy Father grants a plenary indulgence to each and every person who, having previously made confession and received Holy Communion, shall adore the Most Holy Sacrament, publicly

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exposed, for a full hour, from midnight on December 31, 1900, to noon on January 1, 1901.

299 FROM THE VATICAN OFFICES: Circular Letters from the Eminence of the Secretary of State to the Archbishops of Italy, concerning the spiritual needs of emigrants.

215 FROM THE MINUTES OF THE CONSISTORY: Concerning the Consistory held on December 17, 1900.

396 Concerning the Consistory held on April 16, 1901.

513 FROM THE HOLY CONGREGATION FOR THE DISCIPLINE OF THE RELIGIOUS ORDERS: A Doubt: Whether secularized religious are able to receive and retain ecclesiastical benefices.

218 A Doubt: Whether a secularized religious, duly promoted to a parish, is able to make the income from the benefice his own.

218 FROM THE HOLY CONGREGATION OF STUDIES: Decree concerning the sending of a copy of any work to the Holy Congregation, published by persons affiliated with universities.

416 Doubts concerning the granting of degrees of license and doctorate.

IMPRIMATUR: Father Albert Lepidi, Order of the Most Holy Savior, Apostolic Palace, Master.

IMPRIMATUR: Joseph Ceppatelli, Archbishop of Myren, Vicegerent.

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